

# **Dependent Adult Assessment**

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## **Overview**

States respond to the problem of adult maltreatment with a variety of systems and programs, including law enforcement, Protection and Advocacy systems, Long-Term Care Ombudsman programs, and Adult Protective Services (APS). For many, if not most, older adults and adults with disabilities who live in the community, APS will be the first to respond to reports of suspected maltreatment.

APS was recognized by federal law in 1975 under Title XX of the Social Security Act via the Social Services Block Grant (SSBG). SSBG provides states with funding to support social service programs, as well as flexibility in deciding how to spend the SSBG funding. Since then, all 50 states and the District of Columbia have developed APS programs in accordance with local needs, structures, and laws. Today, SSBG remains the only federally appropriated funding available for state APS operations.

This manual, along with the Appendix, were developed in conjunction with applicable federal statutes, the National Adult Protective Services minimum recommended APS program requirements, and the Administration for Community Living's [National Voluntary Consensus Guidelines](#).

### **Law Changes Impacting APS in Iowa**

**1983:** Dependent adult abuse codified.

**1987:** Dependent adult multidisciplinary teams codified.

**1991:** Dependent adult abuse registry codified; authorized access to dependent adult abuse information was identified; sealing and expungement of records was established; annual report established.

**1993:** The Department of Inspections and Appeals (DIA) began managing all dependent adult abuse reports for facilities; denial of critical care due to the adult's own actions no longer placed on the registry.

**1994:** The definition of assault added to physical abuse – injury no longer necessary.

**1995:** Sexual exploitation of dependent adult resident of a facility codified.

**1996:** Dependent adult notification of rights; provision of protective services when caretaker refuses; clarification of criminal charges for dependent adult abuse.

**1997:** Dependent Adult Protective Advisory Council is established; state begins mandatory criminal and abuse background checks on prospective employees of health care programs.

**1998:** Assessment Task Force in the Department of Health and Human Services (HHS) appropriates bill, Senate File 2410.

**2002:** Elder Abuse Initiative service program begins; Abuse Education Review Panel for Mandatory Reporter Training curriculum.

**2005:** Dependent adult abuse data is available on the HHS public website at “Public DA data sharing.”

**2006:** “Confirmed” finding codified. Substantiation category does not require placement on Registry.

**2008:** DIA establishes Dependent Adult Abuse Code 235E for entities licensed and certified by DIA.

**2009:** Dependent Adult Information System implemented; Dependent Adult Abuse Risk Assessment Tool developed by Dependent Adult Protective Advisory Council (DAPAC).

**2010:** Department initiation of an emergency order requires a notice of action to the dependent adult (DA) and a competent adult related to the dependent adult.

**2017:** DIA adds a new category of abuse, personal degradation, via [Iowa Code Chapter 235E](#), section 1, subsection 5, paragraph a, subparagraph 3. HHS implements new safety, risk, and dependency assessments, and the Dependent Adult Reporting and Evaluation System statewide.

**2018:** Uniform Power of Attorney Act amended to allow judicial review of Power of Attorney documents if the Attorney in Fact is named as an alleged perpetrator of dependent adult abuse.

**2019:** Iowa Department of Health and Human Services adds a new category of abuse, personal degradation, via [Iowa Code Chapter 235B](#). HHS provides a new definition of exploitation to use in determining dependent adult abuse.

**2021:** The Adult Protection and Child Protection units are now delineated, forming an Adult Protective Unit. Adult Protection Workers will focus solely on Dependent Adult Assessments.

**2022:** Iowa Department of Human Services merges with multiple other state agencies, such as the Iowa Department of Public Health (IDPH) and Iowa Department of Aging becoming the Iowa Department of Health and Human Services.

**2023:** Multiple programs across four agencies become part of the Iowa Department of Inspections and Appeals (DIA) as a new organizational structure for state government

went into effect. DIA became the Department of Inspections, Appeals, and Licensing (DIAL).

**2024:** As a result of a new Iowa law, multiple boards and commissions were cut and consolidated. The Dependent Adult Protective Advisory Council (DAPAC) was among those that were cut. The DAA Unit hired its first Field Support Specialist and implemented the usage of ScanWriter software which enables advanced financial analysis to assist in identifying potential financial exploitation.

**2025:** Iowa Code was updated to strengthen protective efforts for dependent adults. The change authorized the court, upon a showing of probable cause that exploitation has occurred, to permit HHS to obtain financial records that HHS reasonably believes are connected to the resources of the dependent adult.

## **Ethical Foundations of APS Practice**

The Iowa Department of Health and Human Services' (HHS) goal is to maximize positive outcomes with dependent adults by protecting well-being, empowering independence, and supporting quality of life. In order to engage in best practice to assist vulnerable adults, use ethical foundations for practice.

A code of ethics provides a conceptual framework and practical guidance that workers can use when they are challenged by conflicting ethical duties and obligations. Most professions have developed their own codes of ethics, including social work and Adult Protective Services (APS). APS practice frequently involves situations that require workers to navigate complicated ethical situations. Key concepts in the ethical foundation for APS practice include, but are not limited to:

- **Least restrictive alternative.** Least restrictive alternative means a setting, a program, or a course of action that puts as few limits as possible on a person's rights and individual freedoms while, at the same time, meeting the person's care and support needs.
- **Person-centered service.** Person-centered service refers to an orientation to the delivery of services that consider an adult's needs, goals, preferences, cultural traditions, family situation, and values. Services and supports are delivered from the perspective of the individual receiving the care and, when appropriate, the individual's family.
- **Trauma-informed approach.** A trauma-informed approach seeks to do the following:
  - Realize the widespread impact of trauma and understand potential paths for recovery;
  - Recognize the signs and symptoms of trauma in clients, families, staff, and others involved with the system;
  - Respond by fully integrating knowledge about trauma into policies, procedures, and practices; and

- Actively resist re-traumatization. To assist with this effort, we should collaborate with investigatory agencies such as law enforcement, clinicians, CPC/CAC or other professionals involved to limit the times the person who may have experienced abuse, neglect, or exploitation needs to discuss their experience.

A trauma-informed approach can be implemented in any type of service setting or organization and is distinct from trauma-specific interventions or treatments that are designed specifically to address the consequences of trauma and to facilitate healing.

Trauma-specific intervention programs generally recognize the:

- Survivors need to be respected, informed, connected, and hopeful regarding their own recovery;
  - Interrelation between trauma and symptoms of trauma such as substance abuse, eating disorders, depression, and anxiety; and
  - Need to work in a collaborative way with survivors, family, and friends of the survivor, and other human services agencies in a manner that will empower survivors and consumers.
- **Self-Determination.** All competent persons have a right to self-determine, choose their own values, principles, and lifestyles. All adults are presumed to have competency unless determined otherwise by a court. Adults retain all civil and constitutional rights unless a court has adjudicated otherwise.
  - **Supported decision-making.** Supported decision-making is a series of relationships, practices, arrangements, and agreements, of more or less formality and intensity, designed to assist an individual with a disability to make, and communicate to others, decisions about the individual's life.

### **APS Code of Ethics by the National Adult Protective Services Association**

Adult Protective Services programs and staff promote safety, independence, and quality-of-life for older persons and persons with disabilities who are being mistreated or are in danger of being mistreated, and who are unable to protect themselves.

**Guiding value.** Every action taken by Adult Protective Services must balance the duty to protect the safety of the vulnerable adult with the adult's right to self-determination.

**Secondary value.** Treat dependent adults whom are victims of mistreatment with honesty, caring, and respect.

## **Principles**

- Adults have the right to be safe.
- Adults retain all their civil and constitutional rights, i.e., the right to live their lives as they wish, manage their own finances, enter into contracts, marry, etc. unless a court adjudicates otherwise.
- Adults have the right to make decisions that do not conform with societal norms as long as these decisions do not harm others.
- Adults have the right to accept or refuse services unless incapacitated.

## **Practice guidelines.** APS worker practice responsibilities include:

- Recognize that the interests of the adult are the first concern of any intervention.
- Avoid imposing personal values on others.
- Seek informed consent from the adult before providing services.
- Respect the adult's right to keep personal information confidential.
- Recognize individual differences such as cultural, historical, and personal values.
- Honor the right of adults to receive information about their choices and options in a form or manner that they can understand.
- To the best of one's ability, involve the adult as much as possible in developing the service plan.
- Focus on case planning that maximizes the vulnerable adult's independence and choice to the extent possible based on the adult's capacity.
- Use the least restrictive services first whenever possible—community-based services rather than institutionally-based services.
- Use family and informal support systems first as long as this is in the best interest of the adult.
- Maintain clear and appropriate professional boundaries.
- In the absence of an adult's expressed wishes, support casework actions that are in the adult's best interest.
- Use substituted judgment in case planning when historical knowledge of the adult's values is available.
- Do no harm. Inadequate or inappropriate intervention may be worse than no intervention.

### **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, "Department of Health and Human Services," establishes the purpose and general duties of the Department of Health and Human Services.
- Iowa Code Chapter 234, "Child and Family Services," gives the Director of the Department the authority 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," became effective July 1, 2008. This legislation authorizes the Department of Inspections and Appeals to investigate reports of suspected abuse of dependent adults residing or receiving services in:
  - Health care facilities defined in Iowa Code Section 135C.1
  - Hospitals defined in Iowa Code Section 135B.1,
  - Elder group homes defined in Iowa Code Section 231B.1,
  - Assisted living programs certified in Iowa Code under 231C.3, and
  - Adult day service programs defined in Iowa Code Section 231D.1.
- 441 IAC Chapter 176 (235B), "Dependent Adult Abuse," explains the dependent adult abuse program in greater detail.

### **HHS Responsibilities**

HHS is responsible for:

- Receiving dependent adult abuse reports and collect, maintain, and disseminate the reports through the Central Abuse Registry.
- Conducting evaluations and assessments in single family homes and community-based living settings other than those identified as being covered by DIA expeditiously. (See the definition of [Facility, Agency, or Programs](#).)
- 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.

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](#)
- [Evaluation and assessment process](#)
- [Community living programs not covered by DIA](#)
- [Delivery of protective services](#)
- [Case records](#)
- [Central Abuse Registry](#)
- [Release of dependent adult abuse information](#)

## **Definitions and Terms**

Legal reference: 441 IAC 176.1(235B) and 176.2(235B); Iowa Code Chapters 235B and 633; Iowa Code Sections 702.4, 702.9, 702.17, 708.1, 708.7, 709.1A, 709.15, 709.21, 714.1, and 235B.2; and *Black's Law Dictionary*, Eleventh Edition, West Group, 2019

**“Adult Protective Service Case Manager” or “APSCM”** means the person assigned to manage a dependent adult case using case planning and case management for the “life of the case.”

**“Adult Protective Service Supervisor” or “APSS”** means the supervisor of the Adult Protective Worker and Adult Protective Services Case Manager.

**“Adult Protective Worker” or “APW”** means the person assigned to complete the dependent adult evaluation or assessment.

**“Affidavit”** means a voluntary written statement of facts made under oath before a notary public.

**“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))

**“Assault”** means the same as defined in Iowa Code Section 708.1:

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

NOTE: The adult need not suffer a physical injury during an assault.

**“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**, to determine the circumstances of the adult and make service recommendations. There is no caretaker responsible for the abuse and these founded reports are not kept on the Central Abuse Registry. (Iowa Code Section 235B.3(1)(b))

**“Assessment information”** means material and data maintained by the department in a manual or automated data storage system concerning the report, assessment or evaluation, or disposition of dependent adult abuse.

**“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 whose personal health or safety is at risk due to such impairments, the environment, substance abuse problems, a lack of services or social supports, a refusal to accept services, or other risk factors identified through an assessment. (441 IAC 176.1(235B))

**“Boarding home”** means a premises used by its owner or lessee for the purpose of letting rooms for rental to three or more persons not related within the third degree of consanguinity to the owner or lessee where supervision or assistance with activities of daily living is provided to such persons. A boarding home does not include a facility, home or program otherwise subject to licensure or regulation by the Department of Health and Human Services, Department of Inspections and Appeals, or Department of Public Health. See Iowa Code Section 135O.1

NOTE: “Premises” means a dwelling unit and the structure of which it is a part and facilities and appurtenances of it and grounds, areas and facilities held out for the use of tenants generally, or whose use is promised to the tenant. (Iowa Code Section 562A.6)

**“Brothel”** is any building, structure, part of a building or structure, or other place offering shelter or seclusion, which is principally or regularly used for the purpose of prostitution, with the consent or connivance of the owner, tenant, or other person in possession of it.

**“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, that does not mean the person is legally incompetent. Capacity is a clinical term. Competency is a legal term and determined by a court.

**“Caretaker”** means a related or nonrelated person who has the responsibility for the protection, care or custody of a dependent adult because 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 that is presently providing service to the dependent adult, either in a professional or paraprofessional capacity including, but not limited to, doctors, counselors, and public health nurses. (441 IAC 176.1(235B))

**“Conditionally safe”** means that one or more signs of present or impending danger have been identified. In such cases, the adults’ vulnerabilities or protective capacities do not offset the present or impending danger of maltreatment, or the caretaker is interfering with or refusing supports for the dependent adult. Assist the adult subject, caretaker, service provider(s) and or support system to take steps to alleviate the safety issue(s). The implementation of safety interventions offset the need to take more restrictive actions at this time.

**“Confidential Information”** means any information restricted by Iowa Code Chapter 22, Iowa Code Chapter 217, Iowa Code Chapter 235B, Iowa Code Chapter 229, Iowa Code Chapter 125, 45 CFR 160; 162 and 164, or any other provision in State or Federal law that prohibits disclosure of information.

**“Confinement”** means the act of imprisoning or restraining someone; the quality, state or condition of being imprisoned or restrained. (*Black’s Law Dictionary*, Eleventh Edition, West Group, 2019)

**“Confirmed, not registered”** means that physical abuse or denial of critical care is determined by a preponderance of evidence (more than 50 percent) 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” or “evaluations” and are electronically maintained for five years in DARES and then expunged unless there is a subsequent report. If there is a subsequent report committed by the same caretaker within five years, the report will be maintained electronically and sealed ten years after the subsequent report.

**“Counselor or therapist”** means a physician, psychologist, nurse, professional, counselor, social worker, marriage or family therapist, alcohol or drug counselor, member of the clergy, or any other person, whether or not licensed or registered by the state, who provides or purports to provide mental health services. (Iowa Code Section 709.15)

NOTE: This definition includes staff in residential facilities whom have the title of counselor, social worker, marriage or family therapist, alcohol or drug counselor, member of the clergy, or any other person, whether or not licensed or registered by the state, who provides or purports to provide mental health services.

**“Deception”** means the following:

- Creating or confirming another’s belief or impression as to the existence or nonexistence of a fact or condition which is false and which the actor does not believe to be true;
- Failing to correct a false belief or impression as to the existence or nonexistence of a fact or condition which the actor previously has created or confirmed;
- Preventing another from acquiring information pertinent to the disposition of the property involved in any commercial or noncommercial transaction or transfer;
- Selling or otherwise transferring or encumbering property and failing to disclose a lien, adverse claim, or another legal impediment to the enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record; and
- Promising payment, delivery of goods, or other performance which the actor does not intend to perform or knows the actor will not be able to perform. (Iowa Code Section 702.9)

**“Denial of critical care”** means either a dependent adult or a caretaker of a dependent adult has denied a dependent adult the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult’s life or health. (Iowa Code Section 235B.2)

**“Department”** means the Iowa Department of Health and Human Services and includes the local 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”** [Iowa Code Section 235B.2] means:

- 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 a 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 Chapter 709 or section 726.2 with or against a dependent adult.
  - Exploitation of a dependent adult.

- 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.
- 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 a dependent adult.
- Sexual exploitation of a dependent adult by a caretaker as defined in section 702.17.
- Personal degradation of a dependent adult by a caretaker.

**"Dependent adult abuse information"** means any or all individually identified report data, investigation data, and disposition data maintained by the Registry or by any office of the Department. (Iowa Code Section 235B.5)

**"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.

**"Duress"** means, broadly, a threat of harm made to compel a person to do something against the person's will or judgement; especially a wrongful threat made by one person to compel a manifestation of seeming assent by another person to a transaction without real volition.

**"Elder Abuse"** means abuse of an older individual and may consist of abuse, neglect, self-neglect, or exploitation. (Iowa Code Chapter 235F) (Iowa Code Chapter 726)

**"Emergency shelter services"** includes, but is not limited to, secure crisis shelters of housing for victims of dependent adult abuse. (Iowa Code Section 235B.2(6))

**"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 report. An evaluation is done on all allegations of dependent adult abuse with a caretaker other than the adult subject. (See also the definition of "[assessment](#)." )

**"Exploitation"** means a fraudulent or otherwise illegal, unauthorized, or improper attempt, act, or process by a caretaker or fiduciary to use the physical or financial resources of a dependent adult for any of the following purposes:

- a. Monetary or personal benefit, profit, or gain.
- b. To deprive the dependent adult of the use of the dependent adult's physical or financial resources, including any benefits, belongings, or assets. (Iowa Code Section 235B.2)

**“Expungement”** means the process of destroying or erasing dependent adult abuse information in compliance with Iowa Code 235B.9.

**“Facility, agency, or programs”** means the Department evaluates dependent adult abuse allegations in the following community living facilities, agencies, or programs that are not health care facilities or programs:

- Family-life homes
- Hospice programs
- Respite care
- Waiver programs
- Vocational rehabilitation
- Sheltered workshops
- Work activity centers

These facilities, agencies, and programs are licensed, certified, or approved by the Iowa Department of Health and Human Services (HHS), the Iowa Department of Public Health (DPH), and county governments.

**“False pretenses”** means making a claim that is not supported by fact.

**“False representation”** means someone making a false statement, such as to identity or authority over someone or something, with the intent to defraud or to induce a person to act to the person’s injury or damage.

**“Family or household member”** means a spouse, a person cohabiting with the dependent adult in a private dwelling, 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. (Iowa Code Section 235B.2)

**“Founded”** means that it has been determined by a **preponderance of evidence** (more than 50 percent) that dependent adult abuse has occurred.

**“Guardian”** means the person appointed by the court to have custody of the protected person under the 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:

- Making decisions regarding the care, maintenance, health, education, welfare, and safety of the protected person except as otherwise limited by the court.
- Establishing the protected person’s permanency residence except as limited (noted below in italics).
- Taking reasonable care of the protected person’s clothing, furniture, vehicle, other personal effects, and companion animals, assistive animals, assistance animals, and service animals.

- Assisting the protected person in developing maximum self-reliance and independence.
- Consenting to and arranging for medical, dental, and other health care treatment and services for the protected person except as otherwise limited (noted below in italics).
- Consenting to and arranging for other needed professional services for the protected person.
- Consenting to and arranging for appropriate training, education, and vocational services for the protected person.
- Maintaining contact, including through regular visitation with the protected person if the protected person does not reside with the guardian.
- Making reasonable efforts to identify and facilitate supportive relationships and interactions of the protected person with family members and significant other persons. The guardian may place reasonable time, pace, or manner restrictions on communication, visitation, or interaction between the adult protected person and another person except as otherwise limited (noted below in italics).
- 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, at the guardian's request, the protected person's permanent residence to a nursing home, other secure facility, or secure portion of a facility that restricts the protected person's ability to leave or have visitors, unless advance notice of the change was included in the guardian's initial care plan that was approved by the court. In an emergency situation, the court shall review the request for approval on an expedited basis.
- Consenting to the following:
  - The withholding or withdrawal of life-sustaining procedures from the protected person in accordance with Chapter 144A or 144D.
  - The performance of an abortion on the protected person.
  - The sterilization of the protected person.
- Denying all communication, visitation, or interaction by a protected person with a person with whom the protected person has expressed a desire to communicate, visit, or interact or with a person who seeks to communicate, visit, or interact with the protected person. A court shall approve the denial of all communication, visitation, or interaction with another person only upon a showing of good cause by the guardian.

**“Harassment”** means a person purposefully and without legitimate purpose has personal contact with another person with the intent to threaten, intimidate, or alarm that other person. (Iowa Code Section 708.7(1))

**“Health practitioner”** includes a licensed physician and surgeon, osteopathic physician and surgeon, dentist, optometrist, podiatrist physician, or chiropractor; a resident or intern in any such professions; a licensed dental hygienist; a registered nurse or licensed practical nurse; a physician assistant; and an emergency medical care provider certified under Iowa Code Section 147A.6.

**“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)

**“Incompetent”** means the condition of any person who has been adjudicated by a court to meet at least one of the following conditions:

- a. To have a decision-making capacity which is so impaired that the person is unable to care for the person’s personal safety or to attend to or provide for necessities for the person such as food, shelter, clothing, or medical care, without which physical injury or illness may occur.
- b. To have a decision-making capacity which is so impaired that the person is unable to make, communicate, or carry out important decisions concerning the person’s financial affairs.
- c. To have a decision-making capacity which is so impaired that both paragraphs “a” and “b” are applicable to the person.

**“Indian”** means any person who is a member of an Indian tribe, or is eligible for membership in an Indian tribe, or who is an Alaska native, and a member of a regional corporation as defined in 43 U.S.C. §1606.

**“Indian organization”** means any group, association, partnership, corporation, or other legal entity that is owned or controlled by Indians, or a majority of the members is Indians.

**“Indian tribe” or “Tribe”** means an Indian tribe, band, nation or other organized Indian group or a community of Indians, including any Alaska native village as defined in 43 U.S.C. §1602(c) recognized as eligible for services provided to Indians by the United States secretary of the interior because of the community members’ status as Indians.

**“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. (441 IAC 176.1(235B))

**“Informed consent”** means a dependent adult’s agreement to allow something to happen that is based on a full disclosure of known facts and circumstances needed to make the decision intelligently, i.e., knowledge of risks involved or alternatives. (441 IAC 176.1(235B))

**“Intent”** expresses mental action at its most advanced point, or as it actually accompanies an outward, corporal act which has been determined on. Intent shows the presence of will in the act which consummates a crime. It is the exercise of intelligent will, the mind being fully aware of the nature and consequences of the act which is about to be done, and with such knowledge, and with full liberty of action, willing and electing to do it.

**“Iowa Administrative Code”** The set of all rules adopted by Iowa’s state agencies. Administrative rules are used to implement or put into use laws of the State of Iowa.

**“Iowa Code”** The collection of statutes that contains all permanent laws of the State of Iowa as passed by the Iowa Legislature and signed by the Iowa Governor.

**“Legal Holiday”** means a legal public holiday as defined in Iowa Code §1C.1.

**“Mandatory reporter”** means a person who is required to make a report of suspected dependent adult abuse. Social workers and people who in the course of employment examine, attend, counsel, or treat a dependent adult and reasonably believe a dependent adult has suffered abuse are mandatory reporters. (Iowa Code Section 235B.3)

**“Mental health service”** means the treatment, assessment, or counseling of another person for a cognitive, behavioral, emotional, mental or social dysfunction, including an intrapersonal or interpersonal dysfunction.

**“Mentally incapacitated”** means that a person is temporarily incapable of apprising or controlling the person’s own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance. A person who is impaired by an intoxicant, by **mental illness or deficiency, or by physical illness or disability to the extent that personal decision-making is impossible** is mentally incapacitated. (Iowa Code Section 709.1A; Black’s Law Dictionary, Eleventh Edition, West Group 2019)

NOTE: This definition has changed in Black’s Law Dictionary to “legally incapacitated person,” but continues to be defined in Iowa Code as mentally incapacitated.

**“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 176.1(235B))

**“Nudity”** means the full or partial showing of any part of the human genitals or pubic area or buttocks or any part of the nipple of the breast of a female with less than fully opaque covering. (Iowa Code Section 709.21, paragraph 2)

**“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. Employees of financial institutions may report suspected financial exploitation of a dependent adult, but are not considered mandatory reporters. (Iowa Code Section 235B.3)

**“Personal degradation”** 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.

**“Photograph or film”** means any photograph, motion picture film, videotape, or any other recording or transmission of the image of a person. (Iowa Code Section 709.21, paragraph 2)

**“Physical abuse”** means 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. (Iowa Code Section 235B.2)

**“Physical injury”** means damage to any bodily tissue to the extent the tissue must undergo a healing process in order to be restored to a sound and healthy condition, or damage to any bodily tissue to the extent the tissue cannot be restored to a sound and healthy condition, or damage to any bodily tissue which results in the death of the person who has sustained the damage, or physical injury which is at variance with the history given of it.

Physical injuries that require a healing process include: abrasions, bruises, burns, welts, scalds, sprains, fractures, dislocations, lacerations, eye injuries, hyperemia (reddening of the skin which lasts over 24 hours); internal injuries, including abdominal or chest injuries, brain injuries, brain damage, other central nervous system damage, subdural hemorrhage or hematoma. (441 IAC 176.1(235B) and Iowa Code Chapter 235B)

**“Periodic visit”** refers to face-to-face contact between the adult protective worker and the adult subject within a specified period of time following the conclusion of an assessment. This visit aims to assess the ongoing risk, safety, and health of the dependent adult.

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

**“Present danger”** means immediate, significant, and clearly observed maltreatment which is occurring to a dependent adult in the present or there is an immediate threat of maltreatment requiring immediate action to protect the dependent adult. A situation in which death or severed bodily injury is occurring.

**“Proper supervision”** means supervision 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 capacities”** means a person’s strengths or resources that reduce, control, or prevent risks from arising or from having an unsafe impact on a dependent adult.

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

**“Punishment”** means a sanction such as a fine, penalty, confinement, or loss of property, right or privilege assessed against a person who has violated the law. (*Black’s Law Dictionary*, Eleventh Edition, West Group 2019)

**“Reasonable inference”** means “conclusions which are regarded as logical by **reasonable** people in the light of their experience in life.” [Lannon v. Hogan, 719 F.2d 518, 521 (1st Cir. Mass. 1983)]

**“Recklessly”** means a person acts or fails to act with respect to a material element of a public offense, when the person is aware of and consciously disregards a substantial and unjustifiable risk that the material element exists or will result from the act or omission. The risk must be of such a nature and degree that disregard of the risk constitutes a gross deviation from the standard conduct that a reasonable person would observe in the situation. (Iowa Code Section 235B.2)

**“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. “Report” also means the written document prepared by the Department service worker after completing the evaluation or assessment of an allegation of abuse of a dependent adult. (441 IAC 176.6(235B))

**“Reservation”** means:

- Any Indian country as defined in Title XVIII United States Code Section 1151, and
- Any land not covered under any such Section, title to which is either:
  - Held by the United States in trust for the benefit of Indian tribe or individual, or
  - Held by an Indian tribe or individuals subject to a restriction by the United States against alienation.

**“Risk”** means the probability or likelihood that a dependent adult will suffer maltreatment in the future.

**“Safe”** means no signs of present or impending danger identified or one or more signs of present or impending danger identified and adult vulnerability or caretaker’s protective capacity offset the current danger. The dependent adult is not likely to be in imminent danger of maltreatment.

**“Safety assessment”** means a process, at a point in time, to assess whether a dependent adult is likely to be in imminent danger of serious harm or maltreatment and if safety interventions must be initiated or maintained to provide appropriate protection to the dependent adult.

**“Safety plan”** means a specific, formal, concrete strategy for initiating safety interventions which mitigate the specific danger identified in the safety assessment. The safety plan is employed immediately to identify actions needed right now to keep the dependent adult safe. A safety plan is to be designed to manage the foreseeable dangers in the least restrictive manner.

**“Serious injury”** means the same as defined in Iowa Code Section 702.18. Serious injury means any of the following:

- Disabling mental illness.
- Bodily injury which does any of the following:
  - Creates a substantial risk of death.
  - Causes serious permanent disfigurement.
  - Causes protracted loss or impairment of the function of any bodily member or organ.

**“Sex Act”** means any sexual contact between two or more persons by:

- Penetration of the penis into the vagina or anus;
- Contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person;

- Contact between the finger or hand of one person and the genitalia or anus of another person, except in the course of examination or treatment by a person licensed for the practice of medicine and surgery, chiropractic, or nursing;
- Ejaculation onto the person of another; or
- Use of artificial sexual organs or substitutes for sexual organs in contact with the genitalia or anus. (Iowa Code Section 702.17)
- The touching of a person's own genitals or anus with a finger, hand, or artificial sexual organ or other similar device at the direction of another person. (Iowa Code Section 702.17)

**“Sexual abuse”** means the commission of a sexual offense under Iowa Code Sections 709 or 726.2 with or against a dependent adult as a result of the willful or negligent acts or omissions of a caretaker, including the following:

- First-degree sexual abuse (Iowa Code Section 709.2)
- Second-degree sexual abuse (Iowa Code Section 709.3)
- Third-degree sexual abuse (Iowa Code Section 709.4)
- Indecent exposure (Iowa Code Section 709.9)
- Assault with intent to commit sexual abuse (Iowa Code Section 709.11)
- Sexual exploitation by a counselor or therapist (Iowa Code Section 709.15)
- Invasion of privacy, nudity (Iowa Code Section 709.21)
- Incest (Iowa Code Section 726.2)

**“Sexual exploitation of a dependent adult by a caretaker”** 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;
- A sex act as defined in Iowa Code Section 702.17; or
- Transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for the 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 caretaker's practice or employment; 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)(a)(3)).

**“Sexual Exploitation by a Counselor or Therapist”** means any sexual conduct with a patient or client or former patient or client within one year of the termination of the provision of mental health services by the counselor or therapist for the purpose of arousing or satisfying the sexual desires of the counselor or therapist or the patient or client or former patient or client. Sexual conduct includes but is not limited to the following:

- Kissing
- Touching of the clothes or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals
- A sex act as defined in Iowa Code Section 702.17

**“Counselor or Therapist”** means a physician, psychologist, nurse, professional counselor, social worker, marriage or family therapist, alcohol or drug counselor, member of the clergy, or any other person, whether or not licensed or registered by the state, who provides or purports to provide mental health services.

**“Mental Health Services”** means the treatment, assessment, or counseling of another person for a cognitive, behavioral, emotional, mental or social dysfunction, including an intrapersonal or interpersonal dysfunction.

Sexual exploitation by a counselor or therapist **does not** include touching which is part of a necessary examination or treatment provided a patient or client by a counselor or therapist acting within the scope of the practice or employment in which the counselor or therapist is engaged. (Iowa Code 709.15)

**“Sex Trafficking”** means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sexual activity. Iowa Code § 701A.1.

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

**“Strengths”** means those forces and factors which promote the development of the resources and potential of supports and services which contribute to the dependent adult’s ability to meet their needs and provide a safe living conditions.

**“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” or “SDM”** 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))

**“Theft”** means the taking of the property of another, with the intent to deprive the other of said property, or misappropriating property, which has been placed in your trust, or exercising control over stolen property knowing that it is stolen, or obtaining property by another by deception. Theft committed against a dependent adult by a caretaker is inherently considered exploitation (Iowa Code Section 714.1). The seriousness of the crime increases with the value of the property.

**“Tribal court”** means any court of any Indian or Alaska native tribe, band, nation, pueblo, village, or community that the United States Secretary of the Interior recognizes as an Indian Tribe. (Iowa Code 632D.2(1))

**“Undue influence”** means the improper use of power or trust in a way that deprives a person of free will and substitutes another’s objectives. Consent to a contract, transaction, relationship, or conduct is violable if consent is obtained through undue influence.

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

**“Unreasonable”** means not guided by reason; irrational or capricious. (*Black’s Law Dictionary*, Eleventh Edition, West Group 2019)

**“Unreasonable confinement or unreasonable punishment”** means any legally unauthorized, medically unwarranted or improperly administered restriction of physical movement, locking up, binding, chaining, or sedative medicating of a dependent adult.

**“Unsafe”** means one or more signs of present or impending danger identified. Dependent adult’s vulnerability or protective capacities do not offset the impending danger of maltreatment, or caretaker is interfering or refusing supports for the dependent adult. NOTE: A protective order is the only controlling safety intervention possible.

**“Willful act or statement”** means an act or statement which is not justified and which is intentional.

## **Population Served**

Persons 18 or older who meet the definition of “dependent adult” who have either been abused or neglected by a caretaker or have neglected themselves, constitute the target population for dependent adult protective services with the Iowa Department of Human Health and Services. (Iowa Code Section 235B.1)

Dependency status is a combination of functional impairment resulting in an inability to protect, perform, or obtain services to meet minimum needs. The degree of impairment and affiliated abilities which are impacted is what the Iowa Department of Health and Human Services must assess to determine dependency status.

## **Coordination With Other Entities**

### **Child Protection Centers/Child Advocacy Centers**

Child Protection Centers/Child Advocacy Centers can assist in conducting dependent adult abuse assessments. However, taking reasonable measures to address the safety of the adult victim remains the adult protective worker’s responsibility. The Memorandum of Understanding (MOU) protocol establishes procedures between the child protection center and the Department. Provisions relevant to the expectations of the Department adult protective workers is summarized below.

Legal basis: Iowa Code Section 235B.6(2)(b)(1) entitles the CPCs/CACs to access data as **“persons involved in an investigation of dependent adult abuse.”**

The MOU contracts, between the Department and each of the centers, recognizes the CPCs/CACs as “agents of the Department of Health and Human Services involved in an evaluation of dependent adult abuse and duly authorized to receive information regarding dependent adult abuse regardless of the finding of the report.”

### **Multidisciplinary Teams**

Legal reference: Iowa Code Section 235B.1(1); 441 IAC 176.13)

Each Department APS area is required to have at least one multidisciplinary team. The multidisciplinary teams provide consultation to Department staff on assessing needs of, formulating and monitoring a treatment plan for, and coordinating services to victims of dependent adult abuse.

The APS Director 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 the 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.

[RC-0172, Multidisciplinary Team Practice Guidance](#) is available as an overview of foundational elements, establishments, and procedures.

### **Multidisciplinary Team Agreements**

When the team is established, the APS Director or designee and all team members shall write and sign an agreement on form [470-5737, Multidisciplinary Team \(MDT\) Agreement](#). The agreement specifies that:

- The team is composed of Department representatives and persons in the community with:
  - Knowledge and skills related to the diagnosis, assessment, and disposition of dependent adult abuse cases and who are professionals practicing disciplines relative to dependent adults and
  - Who are authorized by law to serve on the team as defined in Iowa Code Sections 235B.1.

- Members serve on a voluntary basis at the request of the Department. The Department has sole responsibility for selection of the team members.
- The purpose of the team's activities is to assist the Department in the assessing the needs of, formulating and monitoring a treatment plan for, and coordinating services to victims of dependent adult abuse.
- The team selects the time, place, and modality for meetings at the convenience of the members.
- If the Department determines consultation is necessary during the course of the assessment or evaluation of alleged abuse, the team will review and provide recommendations.
- Any team member may cause a dependent adult abuse case to be reviewed if approved by the Department through the use of the process of requesting adult abuse information.
- The Department may consider the recommendation of the team in a specific abuse case but is not in any way bound by the recommendations.
- Any written report or document produced by the team is:
  - Part of the Department's case assessment file, and
  - Subject to all confidentiality provisions of Iowa Code Sections 217.30, and 235B, and 441 IAC Chapters 176.
  - Any written records maintained by the team will be destroyed when the agreement lapses.
- No team member will disseminate dependent adult abuse information obtained through the multidisciplinary team. This does not preclude dissemination of information as authorized by Iowa Code.
- Team members receive no compensation from the Department. Department representatives receive no additional compensation for serving as team members.
- The Department provides office supplies necessary to the operation of the team. The team will not acquire other real or personal property.
- Team members must obtain Department authorization before any professional work, including treatment, research, or publication is undertaken using information obtained from team meetings. Use regular procedures to obtain Department authorization.
- Any party to the agreement may withdraw with or without cause upon 30 days' notice. The agreement expires annually on July 1 unless extended by mutual agreement of the parties. Agreements must be renewed annually on or before July 1 of each year.

- Individuals added to the team on an ad hoc basis for a specific case review need the approval of the Department. Individuals, who are not a part of the regular team makeup and are not identified on the current signed agreement, shall sign and date page five of the agreement for each meeting attended during the term of the agreement.

Make copies of page four as needed. Keep these pages with the original signed team agreement. By signing, the ad hoc member agrees to the same terms and conditions as regular team members.

- Whenever a team is created, the Department representative on the team files a copy of form [470-5737, Multidisciplinary Team \(MDT\) Agreement](#) with central office. All parties must resign each agreement at least annually, on or before July 1 of each year.
- Central office will approve team requests for dependent adult abuse information only when it has a current *Multidisciplinary Team Agreement* on file.

### **Law Enforcement Intervention**

Legal reference: Iowa Code Sections 235B.3(7), 235B.2(5)“a”(1), and 235B.20; 441 IAC 176.6(8), (9), and (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, or yourself, call the local law enforcement agency and request assistance.

If at any time during an evaluation or assessment, you believe 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** occurs when a person has legal responsibility for any other person who is dependent and 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** occurs if the caretaker knowingly acts 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 726.28)
- **Nonsupport of a dependent adult** 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 726.28)

- **Assault** occurs if the caretaker does any of the following:
  - Commits any act intended to cause pain or injury or intended to result in physical contact which would be insulting or offensive to a dependent adult, coupled with the apparent ability to execute the act.
  - Commits any act intended to place a dependent adult in fear of immediate physical contact that would 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)

A caretaker alleged to have committed a violation of Iowa Code Section 726.26 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, which 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 must 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.

### **Additional Entities**

If the initial referral includes information concerning issues on employment, civil rights, building safety, equal labor opportunities, public health concerns, or some type of criminal activity, call the appropriate agency and make a referral.

- Iowa Workforce Development, Division of Labor Services: 866-239-0843
- Iowa Civil Rights Commission: 1-800-457-4416
- State Fire Marshal's Office: 515-725-6145
- Equal Opportunity Commission, Federal Dept. of Labor: 1-800-669-4000
- Iowa Department of Health & Human Services, Public Health: 1-866-227-9878
- Iowa Department of Public Safety, Division of Criminal Investigations: 515-725-6010

**Boarding Homes:** The Service Help Desk will call DIAL to determine if any other agencies need to be included in a multidisciplinary team response to the allegation regarding the care or safety of a person living in a boarding home. DIAL will also evaluate any violations of registration of the boarding home.

## **Worker Safety**

Every dependent adult protective case has the potential for unexpected confrontation. Difficulties may occur at any point during the assessment process, but threats and volatile situations are more likely to occur:

- During the initial period of the assessment
- During crisis situations
- When disagreement about concerns arises

Continually evaluate your safety. While thorough intake information and preparation reduces the likelihood of danger, you should always remain alert to possible danger. **When a worker is unsafe, it is likely the adult subject is also unsafe.**

Make a careful evaluation of the allegations to address the immediate safety needs of all involved and yourself. Determine the risk of the situation before making the initial contact with the dependent adult. Consider the following:

- Is there a history of domestic violence?
- Is the family's geographic location extremely isolated or dangerous?
- Does the reporter indicate the possibility of a family member having a mental illness, using drugs, being volatile, or being violent?
- Is the initial contact with the family going to take place after normal working hours?
- Are there firearms or other weapons in the home?
- Is there any information to suggest the manufacturing of dangerous substances, such as methamphetamines?
- Are there animals that may pose a threat?
- Is adverse weather forecasted?
- Is there information indicating risk of contracting a contagious illness?

Establish a plan of safety for yourself, such as assuring your supervisor knows the location you plan to visit, having another adult protection worker accompany you, having a coordinated emergency response plan to indicate a need for assistance, request the assistance of law enforcement, or other safety procedures. **Local offices should establish an emergency response protocol for all workers.**

Your appearance, demeanor, verbal and nonverbal communication, can all affect the adult subject and others response. In confrontational situations, if you appear calm (verbally and nonverbally), have control of the situation without being intimidating, and use the reduction techniques, you may be able to diffuse the situation.

Tips to increase safety:

- Know as much about the case as you can before going out on the visit.
- Inform your supervisor if you have concerns.
- Prepare for the visit with all documents / information you may need.
- Ensure your car is ready: gas, tires, hand sanitizer, wipes, insect spray, etc.
- Observe the environment from the outside and park in a manner that allows for easy departure.
- Observe the environment from the inside: who is in the home, exits, cleanliness, unsafe structure, animals, insects, etc.
- Be aware of the health of those in the home, coughing, open sores, urine, feces, blood, etc.
- Rural agricultural homes may have chemicals, etc. that are dangerous.

NOTE: Some of the chemicals used in the manufacturing of methamphetamines and their byproducts may present an immediate health hazard or be life-threatening due to their toxicity or the risk of explosion of fire.

Consult with your supervisor on the involvement of law enforcement when any element of risk to worker safety is identified.

Consult with the Iowa Division of Narcotics Enforcement or the local drug enforcement task force when there is any information suggesting that there is a “meth lab,” methamphetamine manufacturing, or other alleged illegal drug involvement.

### **Transportation of Adult Subjects**

There are situations where adult subjects and their families may require transportation for various reasons. However, you should not assume the liability of providing the transportation. Alternative transportation options that are available should be utilized, including, family, friends, public transportation, private transportation companies, Medicaid transportation, ambulances, law enforcement, etc.

If you encounter a situation requiring transportation, you will need to find alternative arrangements or consult with your supervisor.

### **Observation and Assessing Safety**

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

Following intake, the next stage of the 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 alleged dependent adult named in the report.

See [18-A\(3\), Case Assignment](#) for more information on how a case is assigned.

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

- What collateral contacts should be made before you observe and interview the subjects of the report?
- Determine if the case assignment is an in-depth intake and what additional information was obtained.
- 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 adult?

If, at any time during the evaluation or assessment, you believe 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.

If you become aware that someone who has access to the adult subject 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 adult subject, that person's guardian or attorney, the guardian's attorney, the perpetrator, and that person's attorney. (Iowa Code 235B.3(8))

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

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

### **Reasonable Efforts**

Legal reference: Iowa Code Section 235B.3, 235B.6; 441 IAC 176.7(1)

Determine what constitutes "reasonable efforts" on a case-by-case basis as it relates to making timely contact with identified parties of an assessment or evaluation. This should be a collaborative decision between the supervisor and adult protective worker based on individual case specifics.

When documenting "reasonable efforts" the worker should articulate within the case, "diligent multimodal efforts (at least 3 types) at various times of the day, over a period of time, to make face-to-face contact with a "party" of a case based on the information we have and case circumstances.

Multimodal efforts could include, but are not limited to:

- Attempted contact at physical living address

- Attempted contact by phone
- Mail correspondence to known address or last known address
- Relative search

If there is **immediate threat of serious harm** to the adult subject, emergency medical services will be contacted immediately by the Centralized Intake Unit. Upon case assignment of the assessment or evaluation, the field supervisor may require the assigned APW to contact the local emergency medical services (law enforcement, paramedics, fire fighters) to obtain necessary information on how safety has or will be assured. If emergency medical services requests department assistance, the field supervisor will determine if contact prior to the assigned timeframe is warranted based on case specifics.

If there is information the alleged perpetrator has access to the adult subject, you must make reasonable efforts to observe the adult subject within **24 hours** of the time the intake was concluded.

When there is information the alleged perpetrator clearly has no access to the adult subject, or services are in place to mitigate safety concerns, make reasonable efforts to observe the adult subject within **72 hours** of commencing 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 adult subject and you if the situation is volatile or dangerous. Emergency medical personnel may take an alleged dependent adult to a medical facility, if necessary. (See [Court Intervention](#) for more information on removal of a dependent adult.)

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

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

If the whereabouts of an adult subject are unknown, phone attempts to locate the adult subject 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.

**NOTE:** When reasonable efforts have been made to observe the adult subject within the specified timeframes and the worker has established that there is no need to observe **and** no risk to the adult subject, the observation of the adult subject may be delayed or waived with supervisor approval.

Delaying contact with an adult subject allows for face-to-face observation to commence after the established timeframes have expired.

Waiving timeframes with an adult subject relieves the worker of their obligation to observe the adult subject during an assessment or evaluation. Examples of when waiving timeframes would be appropriate are:

- Adult subject is deceased.
- Adult subject is currently residing out of state, and the state of residency will not complete a courtesy face-to-face visit.
- The adult subject is outside the jurisdiction of the United States and will not return within the timeframes for case completion as outlined in Iowa Administrative Rules 441-176(5).

### **Transfer Case to Another Department Region**

Should you learn that the adult subject resides in a county outside of your regional area, document all supporting information in the narrative portion of the assessment and work with your supervisor to transfer the case to the appropriate regional area.

### **Observation**

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

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

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

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

Document in the report the date and time the adult subject is observed, and by whom. When the adult subject was not observed within required period (24 or 72 hours), document in the report your efforts made to observe the adult subject.

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

NOTE: You may not enter the residence of an adult subject without permission. If you are refused entry, a court order may be necessary to assess the living conditions and the home environment.

If the adult subject or guardian of the adult subject refuses observation, you may want to consider seeking a court order to have the adult subject examined by a physician. There must be credible evidence the adult subject is dependent in the petition to obtain an order. 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](#).

### **Assessment and Planning**

Legal reference: Iowa Code Section 235B.16A and 441 IAC 176.6

While ensuring the safety of the adult subject, you will also be assessing the adult to determine if the adult meets criteria as:

- A dependent adult
  - Safe in the current situation
  - Unsafe and in need of a safety plan
- An at-risk adult requiring referrals to services
- Not a dependent adult

This section will provide instructions for assessing the adult subject and writing a safety plan if necessary and determining if periodic visits are necessary. The section includes the following:

- Assessment tools
- Determining if adult is dependent or at-risk
- Safety planning

During the first visit, complete a dependency assessment and safety assessment on every adult alleged to be a victim of dependent adult abuse. Use form [470-4841, Dependent Adult Assessment Tool](#) to assist you in making these determinations. You will also find the Assessment Tool embedded in DARES for electronic completion.

As you complete 470-4841, *Dependent Adult Assessment Tool*, use current practice and screening tools in asking detailed inquiries regarding any mental health, substance abuse, or domestic violence concerns the household might be experiencing. Use screening questions and guides to assist in identifying current concerns.

### **Dependency Assessment**

Legal reference: 441 IAC 176.6(9)

The dependency assessment is used to assess an adult subject's degree of dependency. Complete an assessment for every alleged dependent adult. Use the results to guide service recommendations, court interventions (as needed), and to reduce the risk of harm. Attempt to decrease risk and aid in determining whether or not abuse occurred. Gather information to complete the dependency assessment from the adult subject, caretaker, and collateral contacts.

- Document all diagnosed physical and mental health conditions of the adult subject.
- Document all prescribed medication, including current prescription levels.

The dependency assessment consists of five sections:

- [Benefits](#)
- [Current Services](#)
- [Cognitive Impairments](#)
- [Cognitive Screening](#)
- [Physical Impairments](#)
- [Functional Impairment Screening](#)

[RC-0139, Safety, Dependency, and Risk Assessment Practice Guidance](#) provides additional information for the completion of form [470-4841, Dependent Adult Assessment Tool](#) (DA Assessment Tool). It lists the focus point for each statement in the form.

### **Benefits**

Complete this section of the dependency assessment to identify if the adult subject receives any of the following benefits: Medicaid, Medicare, publicly subsidized housing, receives Supplemental Security Income (SSI), receives Temporary Assistance for Needy Families (TANF), receives Social Security Disability Insurance (SSDI), receives Veteran's disabled benefits, or other benefits.

### **Current Services**

Complete this section of the dependency assessment to identify if the adult subject has the following services: guardian, power of attorney – financial, power of attorney – health care, conservator, representative payee, receives waiver services, community day services, housing and relocation services, medical rehabilitation services, nutrition services or other. Consider interviewing all identified individuals and service providers as collateral contacts.

### **Cognitive Impairments**

Complete this section of the dependency assessment to identify if the adult subject has been diagnosed with one of the following cognitive impairments:

- Intellectual or developmental disability,
- Brain injury,
- Dementia, Alzheimer's, or mild cognitive impairment,
- Mental health significantly impacting daily functioning (including prescription misuse), or
- Other medical conditions temporarily impacting cognition.

Optionally you can identify if the adult subject reported an IQ score.

### **Cognitive Screening**

To assist you in determining if the adult subject has the capacity to make decisions regarding their own welfare, administer an approved cognitive screening tool. The screening is a cursory tool to assist you in determining if the adult subject requires additional screening by a medical professional.

Upload the administered cognitive screening tool into File Manager in DARES. When documenting the results of the administered cognitive screening tool, document the adult's behaviors and score rather than diagnose.

If a practitioner completes a comparable cognition screening tool, obtain a copy of the administered tool and upload a copy into File Manager in DARES. You will not need to administer a separate screening tool. Document the score, the practitioner who completed the cognition screening, and the date administered by the practitioner.

Times a cognitive screening are not completed are when the adult subject is:

- In a coma or other medically induced state
- Non-verbal and does not use a communicative device

- Is deceased
- Is out of state and that state is unable to perform a cognitive screening.

If you do not complete a cognitive screening ensure you are documenting why a cognitive screening is not being completed.

General Cognitive Screening Tips (Alzheimer's Association, 2016):

- Set the stage with a relaxed demeanor.
- Ensure there is no sensory interference (hearing and vision are intact/correct; television is off or on low.
- Let the adult subject answer; avoid another person interfering or answering.
- Avoid using the words "test" or "memory."
- Be gentle, but persistent.

### **Mini-Cognition Tool**

The [mini-cognition tool](#) (or mini-cog) is a simple and quick screening tool that can recognize cognitive impairment including Alzheimer's disease and other dementias in their early stages. This is not a thorough professional mental health examination, but rather an easy to use, cursory tool to assist you in determining if the adult subject has a possible cognitive impairment.

The mini-cog can be administered by a doctor, clinician, or social worker. It takes about three minutes to complete 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. 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.

### **Saint Louis Mental Status Exam (SLUMS)**

The [Saint Louis Mental Status Exam \(SLUMS\)](#) examination is designed to measure the adult subject's abilities in orientation, executive function, memory, and attention. The tool can be used to determine if a full-diagnostic assessment by a medical professional is needed. The SLUMS consists of 11 items and measures aspects of cognition that include:

- Orientation,
- Short-term memory,
- Calculations,
- The naming of animals,

- The clock drawing test, and
- Recognition of geometric figures.

It takes approximately seven minutes to administer. Scores range from 0 to 30.

### **Mini-Mental State Examination (MMSE)**

The [Mini-Mental State Examination \(MMSE\)](#) or Folstein test is a 30-point questionnaire that is used extensively in clinical and research settings to measure cognitive impairment.

Administration of the test takes between 5 and 10 minutes and examines functions including:

- Registration (repeating named prompts),
- Attention and calculation,
- Recall,
- Language,
- Ability to follow simple commands, and
- Orientation.

### **Clock Screening**

The **clock drawing test** is a simple tool used to screen people for signs of neurological problems, such as Alzheimer's and other dementias. It is often used in combination with other, more thorough screening tests. But even when used by itself, it can provide helpful insight into a person's cognitive ability.

There are as many as 15 different ways to score this test. Some are quite elaborate and involve awarding points for the inclusion of every number, correctly ordered numbers, two clock hands, drawing the correct time, and for each of the correct numbers placed in the four quadrants. As many as 5, 10, or 20 points can be involved in some of the different scoring methods.

**NOTE:** If any of the results of the cognitive screening tools utilized suggest the possibility of a cognitive impairment, you should inform the adult subject and/or their caregiver that they should follow-up with their primary care physician for further detailed education and evaluation.

### **Physical Impairments**

Complete this section of the dependency tool to identify if the adult subject has physical impairments, which might require the assistance of another to meet aspects of daily living.

## **Functional Impairment**

Two screening tools for functional impairment are embedded into the dependency assessment within DARES: Katz Index of Independence in Activities of Daily Living and Lawton-Brody Instrumental Activities of Daily Living Scale (tools owned and copyrighted by *The Gerontological Society of America*).

### **Katz Index of Independence in Activities of Daily Living**

Katz Index of Independence in Activities of Daily Living, commonly referred to as the Katz ADL, is the most appropriate instrument to assess functional status as a measurement of the adult subject's ability to perform activities of daily living independently. Index ranks adequacy of performance in the six functions of:

- Bathing,
- Dressing,
- Toileting,
- Transferring,
- Continence, and
- Feeding.

Adult subjects are scored for independence in each of the six functions. Score each activity as Independence (no supervision, direction, or personal assistance) or Dependence (with supervision, direction, personal assistance, or total care.) A summary score ranges from 0 (low function, dependent) to 6 (high function, independent).

### **Lawton-Brody Instrumental Activities of Daily Living Scale**

Lawton-Brody Instrumental Activities of Daily Living Scale (IADL) is an appropriate instrument to assess independent living skills. These skills are considered more complex than the basic activities of daily living as measured by the Katz ADL. The instrument is most useful for identifying how a person is functioning at the present time, and to identify improvement or deterioration over time.

There are eight domains of function measured with the Lawton IADL scale. For each category, check the box for the item description that most closely resembles the client's highest independence level (either 0 or 1). Check only one box for each category. A summary score ranges from 0 (low function, dependent) to 8 (high function, independent).

### **Summary of Dependency Status**

Write a summary of dependency findings upon completion of the dependency assessment. This summary should document scores from the administered tools and how the scores quantify dependency. The summary should document areas of need as evidenced by the tools and information gathered and documents the adult subject's answer to overall health.

NOTE: The summary of dependency status will be auto-populated into the completed assessment/evaluation, while the remainder of the dependency assessment is suppressed. The summary of dependency write-up is integral to the over-all assessment/evaluation. Ensure no protected health information is included in the summary.

### **Risk Assessment**

The risk assessment is an analysis tool that uses information from investigations, research, and practice experience to:

- Help workers enhance an adult subject's safety, health, independence, and rights.
- Help managers optimize resources and ensure quality, effectiveness, efficiency, and fairness.

A risk assessment will be completed on the adult subject. The system will calculate the risk level as low, moderate, or high. It is possible for an adult to be not dependent and high risk.

There are two policy overrides, which if applicable, will override the final risk level to high. Those are:

- Sexual abuse case AND the alleged caretaker is likely to have access to the adult subject.
- Serious, non-accidental physical injury requiring hospital or medical treatment.

If a discretionary override is made, mark yes and provide a written narrative to indicate the reason. If a discretionary override is not needed, mark no. A supervisor's review and approval of discretionary override will be needed for each risk assessment completed.

NOTE: It is not necessary to complete a risk assessment on a deceased adult subject.

A risk assessment will be completed on the alleged person responsible for abuse. The system will calculate the risk level. NOTE: It is not necessary to complete a risk assessment on denial of critical care due to the adult's own action cases or HCBS homes.

### **Safety Assessment**

An initial safety assessment will be completed during the first visit with the adult subject and should be entered into DARES within 24 hours along with supervisory consultation.

A final safety assessment will be completed before case closure and will require supervisory consultation. A second or final safety assessment will always be required.

The safety assessment consists of 14 questions to identify safety issues. Address all safety issues identified by assisting the adult subject, caretaker, service providers, and support systems obtain medical care or placement, engaging additional formal and informal supports, safety planning, use of law enforcement, or seeking legal intervention.

Document observations regarding threats of maltreatment, adult subject's vulnerability to maltreatment, and caretaker or adult subject's protective capacities in the appropriate narrative section.

NOTE: The narrative section of the final safety assessment will be embedded into the completed assessment/evaluation report under Summary and Analysis of Safety Constructs.

### **Threats of Maltreatment**

Consider the history of the adult subject and current allegations. Questions to ask and information to consider include:

- Current and previous abuse or neglect: What is the history of abuse and neglect of this adult subject and the caretaker, if there is one?
- Severity of abuse or neglect: Was the current or past abuse severe enough to cause injury to the adult subject? Consider the severity in relationship to the vulnerability of the adult.
- Type of abuse or neglect: What type of abuse or neglect is alleged by the referral and has there been the same allegation previously?
  - Physical abuse
  - Denial of critical care by a caretaker
  - Denial of critical care due to the adult's own actions
  - Sexual abuse
  - Sexual exploitation
  - Exploitation
  - Personal degradation

- Frequency of abuse or neglect: Is the abuse or neglect chronic (steady over a long period) or acute?  
  
Documented history yields information as to whether abuse is chronic, acute, or being initiated. Presence of physical injuries and being over or underweight (not a medical condition) may indicate a history of abuse and neglect. Chronic neglect may have longer lasting consequences than some acute abuse.

Potential sources of information include:

- Search of previous and current records
- Mental health and hospital records
- Interviews with the reporter (if known) and other people who have experience with the adult subject
- Interviews with service providers
- Interviews with the adult subject and the caretaker, if there is one, to determine whether services were helpful and reasons the adult subject did or did not use them
- Interviews with relatives who might be able to assist the adult subject in using services or assuring safety
- Assessment and interviews with health professionals who have experience in assessing physical injury or neglect
- Observation of the adult subject to determine if the adult subject was bruised or injured
- Physical viewing of the adult subject
- Law enforcement records

### **Adult Subject's Vulnerability**

"Dependent adult's vulnerability" refers to the adult subject's susceptibility to suffer abuse or neglect based on the adult subject's health, size, mobility, and social and emotional state, and ability of the caretaker, if there is one, to provide care and protection.

Key characteristics indicating increased vulnerability include:

- Physical or mental impairments;
- Lack of available services;
- Inadequate resources for daily needs;
- Substance abuse of either the adult subject or caretaker, if there is one;
- Homelessness; or
- Lack of self-protective skills.

Questions to ask and information to consider include:

**Age:** Does the age of the adult subject make them more vulnerable? The older the adult subject, the more vulnerable they are.

**Health, mental health, and ability to consent to:**

- What health and mental health issues does the adult subject have? How serious are they?
- Are they being treated?
- Is the adult subject aware of their health or mental health issues?
- Does the adult subject appear to have the capacity to make decisions?

**Behaviors:**

- Is the adult subject aggressive or belligerent?
- Is the adult subject withdrawn, fearful, or anxious?
- Does the adult subject have the ability to protect oneself and get needs met?
- Does the adult subject ask others for help?
- Does the adult subject take risks that put them in danger?
- Does the adult subject abuse drugs or alcohol?

**Strengths:** What are the adult subject's strengths (cognitive, motor, social emotional skills)? Are there specific talents the adult subject is interested in or exhibits?

The adult subject's protective capacities could include:

- Apparent competency;
- An adequate, caring caretaker;
- A guardian or conservator readily available to provide protection to the adult subject or the adult subject's resources;
- Abundant, available community resources; or
- Neighbors and others in the community involved with the adult subject.

Potential sources of information include:

- Search of previous and current records
- Hospital records
- Interview with the reporter (if known), relatives, doctors, care providers
- Interview with the adult subject
- Consultation with visiting nurse or mental health professional
- Police records, probation

### **Caretaker or Adult Subject's Protective Capacities**

Assessing caretaker capacities allows you to systematically consider the strengths of caretakers and how they might mitigate safety and risk factors. Below are three categories of characteristics, with questions to consider when assessing them.

#### **Behavior Characteristics**

- Does the caretaker have the physical capacity and energy to care for the adult subject? If the caretaker has a disability (e.g., blindness, deafness, paraplegia, chronic illness), how has the caretaker addressed the disability in caring for the adult subject?
- Has the caretaker acknowledged and acted on getting the needed supports to effectively provide care and protection for the adult subject?
- Does the caretaker demonstrate activities indicating putting aside one's own needs in favor of the adult subject's needs?
- Does the caretaker demonstrate adaptability in a changing environment or during a crisis?
- Does the caregiver demonstrate appropriate assertiveness and responsiveness to the adult subject?
- Does the caretaker demonstrate actions to protect the adult subject?
- Does the caretaker demonstrate impulse control?
- Does the caretaker have a history of protecting the adult subject given any threats to safety of the adult subject?

#### **Cognitive Characteristics**

Assess the caretaker's specific knowledge, intellect, understanding, and perception of the adult subject and the adult subject's care and safety needs. Questions to consider:

- Is the caretaker oriented to time, place, and space?
- Does the caretaker have an accurate perception of the adult subject? Does the caretaker view the adult subject in an "integrated manner" (i.e., seeing strengths and weaknesses) or see the adult subject as "all good" or "all bad"?
- Does the caretaker have the ability to recognize the adult subject's abilities and needs and "special needs" related to being dependent?

- Does the caretaker accurately process the external world stimuli or is perception distorted (e.g., a battered woman who believes she deserves to be beaten because of something she has done)?
- Does the caretaker understand the role of caretaker is to provide protection to the adult subject?
- Does the caretaker have the intellectual ability to understand what is needed to care and protect a dependent adult?
- Does the caretaker accurately assess potential threats to the adult subject

### **Emotional Characteristics**

Assess the caretaker's emotional ability to respond to the adult subject's needs. Questions to consider include:

- Does the caretaker act like they care about the adult subject?
- Does the caretaker have empathy for the adult subject when the adult subject is incapable of performing tasks or remembering to do something?
- Does the caretaker have the ability to be flexible under stress? Can the caretaker manage adversity?
- Does the caretaker have the ability to control emotions? If emotionally overwhelmed, does the caretaker reach out to others or expect the adult subject to meet the caretaker's emotional needs?
- Does the caretaker consistently meet the caretaker's own emotional needs via other adults or services?

### **Assessing Caretaker's Actions**

When assessing protective capacity of the caretaker, actions speak louder than words. Respect a statement by the caretaker that the caretaker has the capacity or will to protect the adult subject, but observations of this capacity are very important, as they may have serious consequences for the adult subject.

When interviewing the caretaker, it is important to include questions and observations that support an assessment of behavioral, cognitive, and emotional functioning. Suggested questions and observations include:

- A history of behavioral responses to crises is a good indicator of what may likely happen. Does the caretaker "lose control"? Does the caretaker take action to solve the crisis? Does the caretaker believe crises are to be avoided at all costs, and cannot problem solve when in the middle of a crises, even with supports?

- Watch for the caretaker's reactions during a crisis. This often spontaneous behavior will provide insight into how a caretaker feels, thinks, and acts when threatened. Does the caretaker become immobile to the point of inaction (failure to protect)? Does the caretaker move to protect the adult subject? Does the caretaker actively blame the adult subject for the crisis?
- Recognition of caretaker anger or "righteous indignation" at first is appropriate and natural. How a caretaker acts beyond the anger is the important thing. Once the initial shock and emotional reaction subsides, does the caregiver blame everyone else for the "interference"? Can the caretaker recognize the protective and safety issues?
- What are the dynamics of the relationship of multiple caretakers? Does the relationship involve domestic violence? What is the nature and length of the domestic violence? What efforts have been made by the victim to protect the adult subject? Does the victim align with the batterer?
- Does the caretaker actively engage in a plan to protect the adult subject from further harm? Is the plan workable? Does the plan have action steps that the caretaker made?
- Does the caretaker demonstrate actions that are consistent with verbal intent or is it contradictory?

Interviewing and information gathering from other sources is critical for an accurate assessment. Suggestions for additional activities include:

- What do others say about the caretaker's ability to provide care and protection to the adult subject?
- What is the documented history that indicates the caretaker's actions in protecting the adult subject?

### **Assessing Environmental Protective Capacities**

An assessment of the environmental capacities will contribute to your overall assessment of the adult subject's threats of abuse or neglect, vulnerabilities and strengths, and the capacities of the caretaker, if there is one. Categories of environmental protective capacities, with questions, and considerations that may be considered when assessing them, includes:

- **Formal family and kinship relationships that contribute to protection of the dependent adult:** What are the formal kinships within the adult subject's family (grandchildren, siblings, half-siblings, children, nieces and nephews, partners, including same-sex partners, etc.)?
- **Informal family and kinship relationships:** What are the informal relationships (family friends, tribal connections, "pseudo" relatives, divorced stepchildren who maintain relationships with the adult subject, etc.)?

- **Formal agency supports:** What are the agencies that have been or are currently involved with the adult subject (drug treatment, hospital, nonprofit agencies, visiting nurse, food banks, home care agencies, etc.)?
- **Informal community supports:** What are the community supports that may or may not be readily apparent (neighbors, neighborhood organizations, card groups, sewing circles, etc.)?
- **Financial supports:** Disability, retirement benefits, Social Security, SSI, general relief, Veterans benefits, etc.?
- **Spiritual, congregational, or ministerial supports:** Churches, ministries, prayer groups, temples, mosques, spiritual leaders within a faith, etc.?
- **Native Americans tribe:** Is the adult subject a member of a tribe locally or elsewhere? Are there Native American agencies that can provide services (elders, within a tribe, tribal chairpersons, liaisons to the tribes, Indian health agencies, etc.)?
- **Concrete needs:** Are needs being met by community partners in the areas of food, clothing, shelter (low income housing, food banks, clothing stores, emergency shelters, subsidized housing)?

Completion of the safety assessment will result in a safety decision of one of the following:

- **Safe:** No signs of present or impending danger identified OR one or more signs of present or impending danger identified and adult vulnerability or caretaker's protective capacity offset the current danger. The adult subject is not likely to be in imminent danger of maltreatment.
- **Unsafe:** One or more signs of present or impending danger identified. Adult's vulnerability or protective capacities do not offset the impending danger or maltreatment, or caretaker is interfering or refusing supports for the adult subject. A protective order is the only controlling safety intervention possible.
- **Conditionally safe:** One or more signs of present or impending danger identified. Adult's vulnerability or protective capacities do not offset the present or impending danger of maltreatment, or caretaker is interfering or refusing supports for the adult subject. Assist the adult subject, caretaker, service providers, and support system to take steps to alleviate the safety issues.

The implementation of safety interventions offset the need to take more restrictive actions at this time. Failure to follow the safety interventions or a change in circumstances may result in the need to take more formal actions to ensure the adult subject's safety. Document the safety interventions on form [470-4835, Safety Plan for At-Risk Adult](#).

- Unable to remediate all safety concerns:
  - Protective order requested but not granted.
  - Dependent adult has the capacity to consent and is refusing services.

- Dependent adult accepted some, but not all of the recommended services.
- Other (please explain).

### **Safety Plan for At-Risk Adults**

Legal reference: 2009 Iowa Acts, Senate File 484

You must write a safety plan for the adult subject 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.
- You are not able to document how the adult subject, caretakers, or provided services eliminate the moderate to high risks.
- An order to remove the adult subject to a supervised setting has not been successful.

Consult with your supervisor to review the adult subject'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 subject'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 do not 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.

Have a conversation with the adult subject and guardian, if there is one, and request assistance in writing a safety plan that would honor the adult's wishes to remain independent yet provide enough interaction to ensure minimal food, housing, or health needs are met.

Examples to consider in preparing the safety plan:

- If the adult subject has a phone and is capable of making a telephone call to request assistance?
- Is it possible to adapt the phone, if there is a phone, but the adult subject cannot use it?
- Is there a list of emergency numbers near the phone and if so, does the adult subject know where it is?
- Is the adult subject 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 [18-Appendix, Family Services Appendix](#).

Include in the plan:

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

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

The safety plan must be developed with the adult subject and take into consideration what the adult subject's concepts of what safety and quality of life means. The safety plan must identify:

- Who will participate to ensure safety of the adult subject,
- Who will monitor the safety plan, and
- Duration of the safety plan.

Document the actions taken or services initiated to address each identified sign of present or impending danger. Address how behaviors, conditions, and circumstances associated with the sign of present or impending danger will be mitigated.

NOTE: If the adult subject has a guardian who is **not** the perpetrator, the guardian must sign the safety plan as well.

Upload form [470-4835, Safety Plan for At-Risk Adult](#) into File Manager in DARES.

## **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](#)
- [Gathering Physical and Documentary Evidence](#)
- [Assessment and Evaluation Conclusions](#)
- [Service Recommendations and Referrals](#)
- [Report Completion](#)

- [Notification and Correspondence](#)

### **Interviews**

Conduct interviews with the adult subject, the alleged perpetrator, and any other persons who may have relevant information regarding the allegations of abuse. When conducting interviews, you should only disclose the information necessary to conduct a complete interview. 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 or is deaf or hard of hearing and there is no interpreter available, you can obtain assistance from the HHS Language Access Coordinator. See the [language access standard of practice](#) for further guidance on how to access these services.

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.napsa-now.org/>. This is the web page for the National Adult Protective Services Association. Click on the dropdown box titled, "Get Help," then select "Help in your area" and it will 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 adult subject 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, provide 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); 441 IAC 176.6

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

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

- Address the abuse allegations.

- Assess the adult subject's mental and physical capabilities.
- Assess the home environment.
- Assess the relationships between the adult subject and other members of the household.
- Assess service needs.

Review the intake information to determine the best and least intrusive manner of contacting the adult subject, keeping in mind that guardians should be contacted first unless the guardian is the person alleged responsible for the abuse. Other possible options are as follows:

- Contact the adult subject or guardian, state the reason for contact, and provide identification.
- Contact family or a collateral source, such as a neighbor or friend, the adult subject or guardian knows and trusts to request assistance.
- Contact the service worker or HCBS waiver specialist. 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.

If a Department service worker or a contracted service has an open service case on the adult subject, consider coordinating a home visit to interview the adult subject together. Collateral contacts can provide valuable information concerning the adult subject, contribute to a more comfortable interview, and eliminate the need to interview the adult more than once concerning the incident.

When the guardian is the person who is suspected of abusing the adult subject, do not notify the guardian you are going to interview the adult subject. Even though a legal guardian has control of the adult subject's physical person, your authority to interview an adult subject, 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, family member, or associate of the guardian who might try to protect the guardian interferes in any way to prevent you from interviewing the adult subject or from interviewing the adult subject alone. Obtain an emergency court order to enter the residence of or examine or interview the dependent adult. See [Court Intervention](#).

Clearly identify yourself and the purpose of your visit. Ask open-ended questions which require the adult subject 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 abuse allegations away from the alleged perpetrator. The adult subject may 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 adult subject's ability to protect him or herself, how the caretaker might react to the allegations, the severity of abuse, and if abuse has occurred previously.

Document your initial assessment of the adult subject's safety in the "narrative" section of the report. Explain what was done in relation to the allegations.

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

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

### **Adult Subject Refuses Interview**

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

An adult subject or the adult subject's guardian may refuse an interview. If you can show probable cause that the adult subject in your assessment is dependent and suffered abuse, 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 Person Responsible**

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

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 report.

Utilize [form 470-5794, Dependent Adult Alleged Person Responsible Contact Attempt Letter](#) throughout the case in attempt to document efforts to interview the alleged person responsible.

If the alleged person responsible is in the custody of law enforcement or corrections, you should consult with the county attorney and the attorney for the person alleged responsible (if applicable) to allow for their attorney to be present for the interview, if their attorney desires. Attorneys for persons alleged responsible for abuse may also decline an interview with HHS on behalf of their client.

When you are permitted to interview a person alleged responsible in custody, law enforcement must provide a Miranda warning each time the person is accessed. Only law enforcement can read the Miranda Warning to a person in custody based on their legal authority. Law enforcement personnel may wish to assist in the interview if it is a joint investigation.

Follow locally established law enforcement procedures for providing the Miranda warning.

**NOTE:** Without a Miranda warning or valid waiver of Miranda rights, incriminating statements may be inadmissible for criminal proceedings.

If while interviewing the person alleged responsible for the abuse, you discover that the person is an agent under a health care Power of Attorney, is acting as the adult subject's caretaker, and is not a relative of the adult subject 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(6), Iowa Code Section 235B.3(6), 235B.3(10), and 249A.4(16)

You may want to interview other persons who have information concerning the allegation of abuse of the adult subject. 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 any person who is a mandatory reporter.

Always make an effort to interview the reporter of the abuse allegation. Take caution not to report their identity or infer the reporter's identity.

Should you receive a linked intake on a current open assessment, contact the reporter as a collateral contact and take caution not to report their identity or infer the reporter's identity.

Mandatory reporters, whether or not they made the report, shall cooperate and assist, upon the request of the Department. 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(10).

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

### **Veteran’s Administration**

During the course of the assessment/evaluation, should you require information from staff employed with the Veteran’s Administration and they decline citing federal law, please contact the Service Help Desk for assistance.

To request Veteran Administration medical records, follow the process outlined in the [APS Field Guide: Submitting Request to Help Desk for VA Medical Records](#).

### **Interactions With Medical Examiners Regarding Dependent Adult Deaths**

Legal reference: Iowa Code Section 235B.3(10) and 235B.6(2)(b)(1)

Medical examiners (MEs) have the same access to HHS information as law enforcement during a joint assessment or evaluation. When an adult protection worker receives an assessment or evaluation where an adult subject has died, and we have dependent adult abuse information or service history for the family, contact the ME and provide any HHS documentation the ME thinks might be helpful during the autopsy. The information you provide could help pinpoint a cause of death, or possibly exculpate a caregiver if the adult subject had an underlying condition which resulted in a natural death.

Contacting the ME and offering HHS information also establishes a relationship, making it easier to connect with the ME if you have questions regarding the autopsy or autopsy results. For additional information see 641 IAC 127.3(1)“d,” Autopsies under Iowa Code Section 22.7(41)(c).

If the worker or supervisor wish to close the case pending autopsy results, the case would need to be opened for an addendum for HHS to seek and share information, as well as to document any updates. Adult protective workers have up to 60 calendar days to complete the addendum.

During that time, the mutual sharing of information can occur without a need for release of information per Iowa Code Section 235B.3(6).

Medical examiners are also considered mandatory reporters by virtue of Iowa Code Section 235B.6(2)(e) which refers to Iowa Code Section 232.68 definition of a “health practitioner” as follows:

**“Health practitioner” includes a licensed physician and surgeon, osteopathic physician and surgeon, dentist, optometrist, podiatric physician, or chiropractor; a resident or intern in any of such professions; a licensed dental hygienist, a registered nurse, or licensed practical nurse; a physician assistant; and an emergency medical care provider certified under section 147A.6.**

As such, the medical examiner can **receive** the dependent adult abuse assessment or evaluation in which the ME was involved. The ME can also receive the intake with reporter information redacted, regardless of disposition. See Iowa Code Section 235B.6(2)(b)(1).

If a ME is seeking information on a Confirmed, Not Placed on the Registry or Unfounded assessment or evaluation in which the ME was not involved, have the ME contact the Service Help Desk ([servicehelp@hhs.iowa.gov](mailto:servicehelp@hhs.iowa.gov)) for assistance under Iowa Code Section 217.30(5)(b).

### **HIPAA Policy for HHS 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.

### **Courtesy Interview**

Upon request, all Department APS regions shall provide assistance to another regions evaluating or assessing an allegation of dependent adult abuse.

Use the following procedure for courtesy interviews:

- The requesting APS region emails the DAA inbox ([daaunit@hhs.iowa.gov](mailto:daaunit@hhs.iowa.gov)) identifying the county where the courtesy interview needs to occur and requests a courtesy interview. The requesting APS region explains the situation and forwards materials as necessary.
- The APS region receiving the request conducts the courtesy interview within established timeframes (24 or 72 hours). Any variation from this time limit must be discussed and agreed upon between APS region supervisors.
- The APS region receiving the request telephones or emails the results of the interview to the requesting APS region immediately following completion of the interview and follows this call or email with a written summary of the interview within 5 business days. The APS region 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 APS region forwards the recording to the requesting APS region. (This recording does not substitute for the telephone call or email and written summary.)
- The APS region conducting the evaluation or assessment confirms receipt of the written report from the APS region that conducted the courtesy interview by providing that APS region with an outcome notification following completion of the report.
- Following receipt of the evaluation or assessment outcome, the APS region 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(7)(a)

See [Evaluations in Facilities, Agencies, or Programs Not Covered by DIAL](#), for a comprehensive guide to completing evaluations of dependent adult abuse perpetrated by a caregiver in community living programs.

### **Gathering Physical and Documentary Evidence**

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

Determine the accuracy of the allegations, in part, through the gathering of physical and documentary evidence.

You are required to document your observations and the evidence obtained. "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 adult subject and any relevant conditions or objects you examine during the course of the evaluation or assessment. Example:

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

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

Where are the injuries on the adult subject?  
Exactly how did the adult subject 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 the adult subject could have fallen against if the adult subject 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**

With the consent of the adult subject or legal guardian, you may take photographs to be used in an abuse evaluation or assessment.

Law enforcement or medical personnel who have pictures or images of the abuse or scene oftentimes will provide those to you upon request.

There is no authorization for reimbursement for you to order X-rays be taken.

### **Medical and Mental Health Examinations**

The information from a medical or mental health examination can assist in determining the capabilities of the adult subject 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 subject is dependent or, if not, what the recommended services should be. Examples:

1. During the evaluation process, you learn the adult subject has a condition affecting the person's functioning level. A professional examination is needed to determine if the adult subject is a dependent adult. Information from the 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 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 the grandson sexually assaulted his grandmother while he was providing care to her. You need medical evidence to found sexual abuse.

If the adult subject 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.

### **Payment for Examinations and Expenses**

Legal reference: 61 IAC 9(912); 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 adult subject or caretaker does not have health insurance or funds available to pay for an examination.

Child protection centers can assist in conducting dependent adult abuse assessments. However, taking reasonable measures to address the safety of the adult subject remains the adult protective worker's responsibility.

- **Medical and mental health examinations.** There are sometimes local funds available to pay for medical or mental health examinations, when adult subjects 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 an adult subject 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, excluding denial of critical care cases due to the adult's own action cases, 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 HHS. The incident only needs to be reported; it does not need to be accepted for evaluation. When HHS 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 denial of critical care due to the adult's own action, the dependent adult will **not** be eligible for this assistance.
- Someone must sign the Crime Victim Assistance application papers. This may be the adult subject, that person's guardian, or a relative or friend of that person who is willing to sign the application. (HHS employees may **not** sign applications, as signing 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:

Office of the Attorney General of Iowa  
Victim Assistance Section  
Hoover State Office Building  
1305 East Walnut Street  
Des Moines, IA 50319  
Phone: (515) 281-5044 or 1-800-373-5044  
[Victim Assistance | Iowa Attorney General](#)

### **Financial Records**

Legal reference: Iowa Code Section 235B.3(7); 441 IAC 176.6(3)

When evaluating an allegation of financial exploitation involving an adult subject, first engage the adult subject or their legal representative (Financial POA, Conservator, etc.) in a person-centered manner to request access to their financial records. If the adult subject has decision-making capacity, you should request they sign a release of information authorizing the Department to obtain financial records from the relevant bank or investment institution. You may use the Department's release form ([Form 470-4839 Authorization for Release of Information](#)) or the financial institution's own release form, if applicable. The release must be completed and signed by the dependent adult or legal representative.

Financial records may be requested simultaneously directly from the institution using [Form 470-5696](#) or [Form 470-5697](#) when mailing in the signed release of information.

In some cases, a bank may refuse to honor a release form; if that occurs, you may ask the adult subject to obtain their own records directly from the bank. It is important to note that if the bank charges a fee for records, the adult subject should NOT bear that cost. HHS shall not require adult subjects to pay out of pocket for access to their own financial records during the course of an assessment.

If the adult subject or legal representative is unwilling or unable to obtain the records or refuses to sign a release, the Department is still obligated to complete its assessment and make other attempts to gain financial records.

If no records are received within 14 days of the initial request utilizing Form 470-5696 or 470-5697, a second request using the same form should be submitted. If, after 28 days, no response or records have been received you should consult with your supervisor and engage the county attorney's office to seek a court order to access the records. Under Iowa Code § 235B.3(7), if authorized by the Department and can show probable cause that financial exploitation has occurred, a court may grant access to the dependent adult's financial records.

This includes any financial accounts the Department reasonably believes are tied to the adult subject's resources. Supervisor approval is required prior to making a request to the county attorney.

If the county attorney declines to file a petition under Iowa Code § 235B.3(7) on behalf of HHS, and all other efforts to obtain financial records have been unsuccessful, the final recourse is to use the Department's internal civil subpoena process. Instructions and forms for initiating the internal civil subpoena process are available on [SharePoint](#).

NOTE: In joint investigations with law enforcement, law enforcement agencies may be able to obtain financial records independently. In such instances, the APW may request a copy of the records obtained by law enforcement to support the Department's assessment.

If the county attorney agrees to pursue a subpoena under Iowa Code § 235B.3(7), you may begin with this step rather than submitting initial requests to the bank. This may be especially appropriate when you are aware the financial institution typically requires a subpoena or court order to release records (e.g. US Bank).

All efforts made during the investigation to obtain financial records should be documented in the body of the report. All releases of information, letters, affidavits, should be uploaded to DARES File Manager.

### **Assessment and Evaluation Conclusions**

Your judgment and conclusions are required to:

- [Assess the adult subject'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)

When alleged abuse involves an adult subject living in their own home, assess the home environment. If 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 member's strengths and weaknesses.
- An analysis of the risk factors to the adult subject named in the report.
- When protective concerns are identified, an analysis of the risk factors to other adults within the household and determine possible dependency.

NOTE: You may not enter the residence of an adult subject without permission. If you are refused entry, a court order may be necessary to assess the living conditions and the home environment.

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

- Adult subject 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 adult subject
- 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 setting other than a care facility (example: waiver day program, work activity center, etc.), assess the environment and relationships where the abuse occurred. Assess the relationships between the alleged perpetrator, the adult subject, and any other dependent adults to whom the alleged perpetrator provides care.

It may be necessary to include an assessment of the dependent adult's own home and household relationships to assess service needs. (See [Evaluations in Facilities, Agencies, or Programs Not Covered by DIAL.](#))

### **When the Adult Subject Transitions Home (Living) Environments**

During the assessment/evaluation you should make every effort to observe the home living environment of adult subjects to ensure their safety and well-being. This effort should extend to all transitions between living environments that occur for dependent adults during the assessment period.

When an adult subject transitions to an accredited, regulated, or licensed facility such as a nursing facility, HCBS Waiver Home, etc. observation of that living environment is not required; however, is best practice to do so.

There may be times an adult subject may not be in their own living environment and could be in another environment such as a hospital, nursing facility, or relative's home and are not quite ready to return to their own home environment prior to the closing of your assessment, you should make every effort to observe the adult subject's home environment.

Remember, you may not enter the home without permission, and it is recommended you conduct the observation with a person authorized by the adult subject to assist in assessing the home environment if the adult subject is absent.

If an adult subject is expected to have a transition in living environments after the report is due for completion and you were unable to observe the living environment the adult subject was transitioning to, you must document the anticipated transition plan and explain why the observation in the living environment could not be completed. Clearly document this information in the body of report.

In cases where an adult subject is transitioning to a more formalized setting such as a nursing facility, HCBS Waiver Home, but has not yet transitioned by the time the report is completed, you must document the tentative transition plan and note that the transfer has not occurred. Clearly document this information in the body of the report.

If the adult subject is scheduled to transition living environments near the completion date of the report, supervisors may authorize an extension to provide additional time to complete the observation of the living environment the adult subject will be transitioning to. This observation of the living environment should occur even if numerous contacts have already occurred between you and the adult subject in another environment.

To meet the observation requirements, APS workers must make reasonable and diligent efforts, utilizing multiple modalities (e.g., in-person visits, phone calls, and coordination with service providers), to observe the adult subject in their living

environment. All attempts to complete the observation must be documented in the narrative, including the dates, times, and reasons for any failed attempts.

When an adult subject or adult subject's caretaker have accepted services to be implemented in the living environment, you should make every effort to contact the service provider as a collateral contact to confirm services have been established. Note if services have started or the date they are anticipated to start in your narrative.

### **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 adult subject 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 adult subject and other household members need.
- Whether district court action needs to be initiated.

Allegations factors will automatically generate in the DARES system in the narrative text box based off of entries on the Findings/Determination section of the adult subject on the Household Composition Screen. Provide narrative conclusions for each factor pertaining to the allegation.

When there is more than one type of abuse alleged, the report must address each type of abuse. The conclusions must document the factors for each type of abuse were considered.

### **Determining Dependency**

An adult is considered dependent if:

- The adult subject is 18 years of age or older and
- Has a physical or mental condition which requires assistance from another, resulting in at least one of the following:
  - An inability to protect their own interests, or
  - An inability to adequately perform or obtain services to meet essential needs.

### **Finding the adult is dependent:**

In order to found a dependent adult abuse report, the conclusions must describe clearly why the adult is dependent. Credible evidence a person is a dependent adult may include the following:

- Documentation of the person's age or birth date.
- A credible person's verification of the person's age or birth date.
- A description of the reason the person is dependent.
- A description of what the caretaker does for the person and what the person cannot do alone.
- A medical or mental health diagnosis. NOTE: A diagnosis may be helpful, but does not in and of itself mean the adult is dependent. For example, a person diagnosed as having diabetes may or may not be able to meet basic human needs.

**NOTE:** Dependency status is a combination of functional impairment resulting in an inability to protect, perform, or obtain services to meet minimum needs. The degree of impairment and affiliated abilities which are impacted is what the Department must assess to determine dependency status. Use the dependency assessment tool to aid in determining dependency.

### **Determining Who Is a Caretaker**

A “caretaker” is a related or unrelated person who has the responsibility for the protection, care, or custody of the dependent adult as a result of:

- **Assuming the responsibility voluntarily.** A person who occasionally runs errands or does nonessential tasks for a dependent adult is not considered a caretaker. However, if someone provides a needed service, such as a meal every evening, and the dependent adult depends on the person to provide that meal, then the person is considered to have “assumed the responsibility” of providing the meal and, therefore, is a caretaker.
- **A contract.** A person who signs a written agreement to provide some type of needed service to an adult subject. This would include an agent under a health care power of attorney, an agent under a financial power of attorney, or a representative payee.
- **Employment.** A person employed specifically for the purpose of providing a needed service to a dependent adult is a caretaker.
- **An order of the court.** A person who has an “order of the court” is a caretaker. A person who is a substitute decision maker in any capacity is a caretaker. This would include a guardian or conservator.

Persons who are ordered by the court to be substitute decision makers for a dependent adult may present themselves as being able to do whatever they wish to or for the dependent adult. However, these persons are designated as caretakers for the purposes of Iowa Code Chapter 235B and are subject to the dependent adult abuse laws as are all other persons determined to be caretakers for the purposes of this law.

To determine whether or not a person is a caretaker, consider the following:

- If the caregiver stopped providing care, would minimal essential human needs go unmet by the dependent adult?
- If the caregiver discontinued care, would the dependent adult be at risk of injury or harm?

NOTE: A caretaker who has the power of attorney for health care decisions and is not a relative may be violating Iowa Code Section 144B.4, which states:

“The following individuals shall not be designated as the attorney in fact to make health care decisions under a durable power of attorney for health care:

- A health care provider attending the principal on the date of the execution.
- An employee of a health care provider attending the principal on the date of execution unless the individual to be designated is related to the principal by blood, marriage, or adoption within the third degree of consanguinity.”

If you discover a caretaker who is not a relative as described above and is acting as power-of-attorney for health care decisions for a dependent adult, notify the county attorney. **This does not apply to power of attorney for financial matters.** There is no legal prohibition against caretakers having power of attorney for financial matters, whether related or not.

**Finding a caretaker responsible:**

To establish that the person responsible for the abuse was the caretaker of the dependent adult, describe the relationship between that person and the dependent adult.

- If the person is receiving money to provide care to the dependent adult, or if the court has ordered that the person is responsible for the dependent adult, state that in the conclusions.
- If there is a contract describing services the person is providing for the dependent adult, state that in the conclusions.
- If the person has assumed the role of the caretaker, describe specifically what the person does to provide services to the dependent adult. State in the conclusions how often the services are performed and what would happen if the person discontinued the care.

**Finding a dependent adult responsible for denial of critical care due to the adult's own actions:**

To establish that the dependent adult is responsible for denial of critical care due to the adult's own actions, describe in the report conclusions:

- A pattern of the dependent adult being denied essential food, shelter, clothing, supervision, physical or mental health care, or other care necessary for the dependent adult's health and welfare.
- The significant event that occurred that brought the dependent adult's situation to the attention of the reporter (especially if there is not a pattern of denial of critical care due to the adult's own actions).

In order to found denial of critical care due to the adult's own actions, conclusions must include a statement that the dependent adult is financially able to purchase services or has been offered financial and other reasonable means to provide services.

A dependent adult, who has no cognitive impairments and is able to rationalize the consequences of their decisions, has the right to make unhealthy choices. Living in a dirty house or eating junk food, in and of itself, is not denial of critical care.

**NOTE: A founded report of denial of critical care due to the adult's own actions does not result in the dependent adult's name going on the Registry as a founded perpetrator.** The data on the report is kept in the Registry for statistical purposes, but the narrative of the report is kept in the Dependent Adult Reporting and Evaluation System (DARES).

### **Founded, Unfounded, or Confirmed, Not Registered Reports**

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 percent) that abuse has occurred.
- **Unfounded**, which means that it has been determined by a preponderance of evidence (greater than 50 percent) 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 percent) physical abuse, denial of critical care by a caretaker, or personal degradation 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.

### **Founded Physical Abuse: Injury**

For a situation to be founded as physical abuse, the report must include credible evidence of **five** factors. They are:

**Factor 1.** The adult subject is a **dependent adult**.

**Factor 2.** The alleged perpetrator is a **caretaker**. Credible evidence may include one of the following:

- Admission by the dependent adult or the caretaker that the act or omission resulted in injury.
- Visual observations by a credible person of acts or omissions of the responsible caretaker, which resulted in the injury.
- Establishing through circumstantial information that injuries occurred during the time the caretaker was providing care for the dependent adult, and that injuries could not have occurred in any way other than from abuse.

**Factor 3.** The dependent adult suffered a **physical injury** requiring a healing process. Credible evidence may include the following:

- Visual observation by a credible person, including a social worker. This information should include a precise description of the size, shape, color, type, and location of the injury.
- Photograph of external visible injuries, as long as:
  - The photograph is taken by a credible person who has maintained possession.
  - The date the photograph was taken can be documented through information obtained by a credible person.
  - Identity of the subject of the photograph can be determined.
  - Photograph adequately depicts the injury.
- Diagnosis or verification by competent medical practitioner of the presence of any injury such as:
  - Dislocations
  - Eye injuries
  - Fractures
  - Sprains
  - Brain damage
  - Subdural hemorrhage or hematoma
  - Central nervous system damage
  - Internal, abdominal, or chest injuries

NOTE: Information collected from the medical practitioner should include a description of the injuries present, and if possible, the best professional judgment of the cause of the injury. For fractures and similar injuries, obtain an estimate of the amount of force necessary to cause the injury, if possible.

Obtain information in writing. It might be necessary to remind the medical reporter that you have a legal right to the medical information. (Iowa Code Section 235B.3(5). The medical chart may be a source of written information. You may have to read the medical information at the medical facility.

- Observation of the presence of scar tissue or other bodily tissue, which results from the healing of an injury, or verification of the presence of such tissue by a credible and competent person.
- X-rays or other diagnostic tests which verify the presence of injury, so long as:
  - Tests were taken by a competent professional who maintains possession.
  - The dates of tests can be documented by credible person.
  - Documentation is maintained that the tests were taken of the dependent adult who is subject of the evaluation.

**Factor 4.** The dependent adult was injured by the acts or omissions of the caretaker.

**Factor 5.** The dependent adult's injury is nonaccidental or at variance with the history given.

- Not accidental means that a reasonable and prudent person would have been able to foresee that injury to a dependent adult might result from the caretaker's acts.
- When injuries occur as a result of the acts of omissions of a caretaker, consider whether the injuries could have been accidental in nature and not readily foreseen. If injuries occur, consider consulting with a physician to determine whether these injuries would have required a healing process.
- To conclude that the injury is at variance with the history given for the injury you must have credible evidence that the injury occurred in a manner which is not physically possible or which is incongruous with the injury.
- If the dependent adult assaults the caretaker and the caretaker states there was no alternative but to respond physically in self-defense, document, and analyze whether or not the caretaker had other available alternates. Self-defense which results in injury to a dependent adult is not physical abuse if it can be established that the caretaker had no available alternative response to stop the dependent adult's assault.

### **Founded Physical Abuse: Assault**

For a situation to be founded as physical abuse: assault of a dependent adult, the report must include credible evidence of the following **four** factors:

**Factor 1.** The adult subject is a **dependent adult**.

**Factor 2.** The alleged perpetrator is a **caretaker**.

**Factor 3.** An assault occurred due to one of the following:

- The commission of an act intended to cause pain or injury or intended to result in physical contact which is insulting or offensive to the dependent adult, coupled with the ability to execute the act; **or**
- The commission of an act intended to place the dependent adult in fear of immediate physical contact which will be painful, injurious, insulting or offensive, couple with the ability to execute the act; **or**
- Intentionally pointed any firearm toward the dependent adult or displayed any dangerous weapon in a threatening manner toward the dependent adult.

**Factor 4.** The assault occurred as a result of the acts of a **caretaker**.

**NOTE:** An assault may be committed without causing any actual injury to the victim. However, a verbal threat alone is not an assault unless surrounding circumstances indicate the immediate intent to execute the act.

**Founded Physical Abuse: Unreasonable Confinement or Punishment**

For a situation to be founded as physical abuse: unreasonable confinement or unreasonable punishment of a dependent adult, the report must include credible evidence of the following **four** factors:

**Factor 1.** The adult subject is a **dependent adult**.

**Factor 2.** The alleged perpetrator is a **caretaker**.

**Factor 3.** The dependent adult was **confined or punished** without legal or medical authorization by one of the following:

- Restriction of physical movement, locking up by binding, chaining, **or**
- Medical sedation, **or**
- Unwarranted, humiliating, or degrading acts toward the dependent adult.

**Factor 4.** The dependent adult was confined or punished as a result of the acts or omissions of the caretaker.

Credible evidence could include:

- The use of competent legal or medical authority to show lack of basis for the act.
- Credible evidence that the act occurred.

**NOTE:** A dependent adult may receive an injury while a caretaker is attempting to restrain the dependent adult from hurting himself or others or destroying property. If the restraint technique was commensurate with the dependent adult's behavior and was warranted under the circumstances, then the incidental injury would not be considered physical abuse.

You must document and analyze:

- The behavior of the dependent adult, which prompted the caretaker to use physical restraint.
- If the mechanism of restraint was sanctioned by agency guidelines or professional advice.
- The type of restraint and degree of force that was used.

- Other types of non-physical discipline, which could have been used instead.
- The immediate outcome of the restraint tactic.

**Suggested resources for physical abuse cases:**

- Physician
- Visiting nurse
- Law enforcement agency
- Credible witnesses
- Multidisciplinary team
- Journals and medical books
- Specialists in mental health, intellectual disability, Alzheimer's disease, developmental disabilities, or brain injuries

Crime victim compensation may be able to pay for any expenses incurred by the victim.

**Decision-making questions for physical abuse cases:**

- Does the dependent adult require hospitalization or medical attention?
- Does law enforcement need to be involved?
- Is legal action necessary to secure medical attention for the dependent adult?
- Was the injury not accidental?
- What is the date of the injury?
- How did the injury occur?
- What was the caretaker's initial explanation of the injury?
- Does the caretaker describe a protective or an assaultive action?
- Are witnesses really credible?
- Is there a diagnosis for a skin disorder or is the victim on medication, which could make the skin susceptible to bruises?
- Has the caretaker been trained on how to give care?
- Were restraints used? If so, exactly how? Is this a proper method of restraint? Is this restraint done for the benefit of the dependent adult or the caretaker?

**Founded Sexual Abuse: Sexual Abuse in the First Degree**

For a situation to be founded as sexual abuse in the first degree, the report must include credible evidence of the following **four** factors.

**Factor 1.** The adult subject is a **dependent adult**.

**Factor 2.** The alleged perpetrator is a **caretaker**.

**Factor 3.** A **sex act** was committed as a result of the acts or omissions of the caretaker **and any of the following are true.**

- The sex act was done by force or against the will of the dependent adult; **or**
- The sex act was done to a dependent adult who either lacks mental capacity sufficient to give consent or who lacks mental capacity to know right or wrong conduct of sexual matters.

Credible evidence may include one of the following:

- Information provided by credible perpetrator or victim. The information obtained should include a precise description of the type of sexual act which occurred.
- Observation of a sex act by a credible person. The information obtained should include a precise description of the sex act that occurred.
- Diagnosis or verification by a competent medical practitioner of the presence of genital injuries or disease, which could not exist in the absence of a sex act.
- Verification by a competent professional of the presence of the perpetrator's sperm in the dependent adult's anus, mouth, vagina, or genital area.
- Verification by a competent professional of the presence of body tissue of the perpetrator on the dependent adult, or body tissue of the dependent adult on the perpetrator, which could not exist in the absence of a sex act.

**Factor 4.** The dependent adult suffered a serious injury as a result of the sex act.

Credible evidence shall include **BOTH** of the following:

- Credible evidence from a credible person that a **serious injury** has occurred. For the purpose of the offense, "serious injury" means disabling mental illness or bodily injury which creates a substantial risk of death, **or**
- Causes permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ, **and**
- Credible evidence from a credible person that the injury occurred to the dependent adult **during the commission of the sex act.**

### **Founded Sexual Abuse: Sexual Abuse In the Second Degree**

For a situation to be founded as sexual abuse in the second degree, the report must include credible evidence of **four** factors. They are:

**Factor 1.** The adult subject is a **dependent adult.**

**Factor 2.** The alleged perpetrator is a **caretaker.**

**Factor 3. A sex act** was committed as a result of the acts or omissions of the caretaker **and any of the following are true:**

- The sex act was done by force or against the will of the dependent adult; **or**
- The sex act was done to a dependent adult who either lacks mental capacity sufficient to give consent or who lacks mental capacity to know right or wrong conduct of sexual matters.

Credible evidence may include one of the following:

- Information provided by a credible perpetrator or victim. Information obtained should include a precise description of the type of sex act that occurred.
- Observation of the sex act by a credible person. Information obtained should include a precise description of the type of sex act that occurred.
- Diagnosis or verification by competent medical practitioner of the presence of genital injuries or disease, which could not exist in the absence of a sex act.
- Verification by competent professional of the presence of perpetrator's sperm in the dependent adult's anus, mouth, vagina, or genital area.
- Verification by a competent professional of the presence of body tissue of perpetrator on the dependent adult or body tissue of dependent adult on perpetrator, which could not have occurred in the absence of sex act.

**Factor 4. Any of the following are also true:**

- The caretaker **displayed a deadly weapon** in a threatening manner during commission of the sex act, **or**
- The caretaker **used or threatened to use force** which resulted in a serious injury or created a substantial risk to the life or health of the dependent adult; **or**
- The caretaker **aided or abetted others** in committing a sex act **and** the sex act was committed by force or against the will of the dependent adult.

### **Founded Sexual Abuse: Sexual Abuse in the Third Degree**

For a situation to be founded as sexual abuse in the third degree, the report must include credible evidence of **three** factors. They are:

**Factor 1.** The adult subject is a **dependent adult**.

**Factor 2.** The alleged perpetrator is a **caretaker**.

**Factor 3.** A **sex act** has been committed as a result of the acts or omissions of the caretaker **and any of the following are true:**

- A sex act done by force or against the will of the dependent adult, whether or not the caretaker is the victim's spouse; **or**

- A sex act is performed while the dependent adult is mentally incapacitated, physically incapacitated or physically helpless; **or**
- A sex act is performed while the dependent adult is under the influence of a controlled substance **and all the following are true:**
  - The controlled substance prevents the dependent adult from consenting to the act.
  - The caretaker knows or reasonably should have known the dependent adult was under the influence of the controlled substance.

**NOTE:** Cohabiting is used as one factor to consider the intent, nature, and consent in the marital relationship. Consent by the alleged victim cannot be inferred from cohabitating or marital status alone.

Credible evidence may include one of the following:

- Information provided by credible perpetrator or victim. The information obtained should include a precise description of the type of sex act.
- Observation of the sex act by a credible person. The information obtained should include a precise description of the activity which occurred.
- Diagnosis or verification by a competent medical practitioner of the presence of genital injuries or disease, which could not exist in the absence of a sex act.
- Verification by a competent professional of the presence of the perpetrator's sperm in the dependent adult's anus, mouth, vagina, or genital area.
- Verification by a competent professional of the presence of body tissue of the perpetrator on the dependent adult or body tissue of the dependent adult on the perpetrator which could not have occurred in absence of a sex act.
- The dependent adult has a **mental incapacity** which precludes giving consent or knowing the right and wrong of conduct of sexual matters which can include that the sex act is performed while the dependent adult is mentally incapacitated, physically incapacitated, or physically helpless.

**NOTE:** Cohabiting is used as one factor to consider the intent, nature, and consent in the marital relationship. Consent by the alleged victim cannot be inferred from cohabitation or marital status alone.

### **Founded Sexual Abuse: Assault with Intent to Commit Sexual Abuse**

For a situation to be founded as sexual abuse: assault with intent to commit sexual abuse, the report must include credible evidence of **four** factors. They are:

**Factor 1.** The adult subject is a **dependent adult**.

**Factor 2.** The alleged perpetrator is a **caretaker**.

**Factor 3.** An act was committed as a result of the acts or omissions of the caretaker and any of the following are true:

- The act was intended to cause pain or injury or intended to result in physical contact which would be insulting or offensive to the dependent adult, coupled with the ability to execute the act; **or**
- The act was intended to place the dependent adult in fear of immediate physical contact which will be painful, injurious, or offensive coupled with the ability to execute the act; **or**
- The caretaker intentionally pointed any firearm toward the dependent adult or displayed any dangerous weapon toward the dependent adult in a threatening manner; **or**
- The caretaker intentionally points a laser emitting light beam at the dependent adult with the intent to cause pain or injury to the dependent adult.

**Factor 4.** The caretaker intended to do one of the following:

- A sex act by force or against the will of the dependent adult; or
- A sex act to a dependent adult who either lacks mental capacity sufficient to give consent or who lacks mental capacity to know right and wrong of conduct in sexual matters.

**NOTE:** Motive/intent may be determined by creditable or circumstantial evidence.

**ATTENTION:** The act is **not** an assault when:

- The person doing any of the above and the other person are voluntarily participants in a sport, social, or other activity, not in itself criminal, **and**
- The act is a reasonably foreseeable outcome of the sport or activity and does not create an unreasonable risk of serious injury or breach of the peace.

### **Founded Sexual Abuse: Incest**

For a situation to be founded as sexual abuse: incest, the report must include credible evidence of **four** factors. They are:

**Factor 1.** The adult subject is a **dependent adult**.

**Factor 2.** The alleged perpetrator is a **caretaker**.

**Factor 3.** A sex act was committed as a result of the acts or omissions of the **caretaker**. Credible evidence may include one of the following:

- Information provided by a credible person allegedly responsible for the abuse or victim. Information obtained should include a precise description of the type of activity in which the participants engaged.

- Observation of sexual intercourse by a credible person.
- Diagnosis or verification by a competent medical practitioner of the presence of genital injuries or disease, which could not exist in the absence of sexual intercourse.
- Verification by a competent professional of the presence of perpetrator's sperm in the dependent adult's vagina or genital area. Or, for a female perpetrator, verification by a competent professional of the presence of the dependent adult's sperm in the perpetrator's vagina or genital area.
- Verification by competent professional of the presence of body tissue of the perpetrator on the dependent adult, or body tissue of the dependent adult on the perpetrator, which could not exist in absence of sexual intercourse.

**Factor 4.** The caretaker knew the dependent adult is related, legitimately or illegitimately, as an ancestor, descendant, brother or sister of whole or half blood, aunt, uncle, niece or nephew.

#### **Founded Sexual Abuse: Indecent Exposure**

For a situation be founded as sexual abuse: indecent exposure, the report must include credible evidence of **five** factors. They are:

**Factor 1.** The adult subject is a **dependent adult**.

**Factor 2.** The alleged perpetrator is a **caretaker**.

**Factor 3. One of the following acts** occurred as a result of the acts or omissions of the caretaker:

- The caretaker exposed pubes or genitals to the dependent adult; **or**
- The caretaker committed a sex act in view of the dependent adult.

Credible evidence may include statements of the victim, person allegedly responsible for the abuse, or witnesses that the person allegedly responsible for the abuse did expose pubes or genitals to the dependent adult or did commit a sex act with the dependent adult in the presence or view of another person or with another person in the presence or view of the dependent adult.

**Factor 4.** The act was done with the intent to arouse or satisfy the sexual desires of either the caretaker or the dependent adult **and** the caretaker knows or reasonably should know the act was offensive to the dependent adult. Evidence must be credible.

**Factor 5.** The caretaker and dependent adult not cohabitating as spouses.

### **Founded Sexual Abuse: Sexual Exploitation by a Counselor or Therapist**

For a situation to be founded as sexual abuse: sexual exploitation of a dependent adult by a counselor or therapist, the report must include credible evidence of **five** factors. They are:

**Factor 1.** The adult subject is a **dependent adult**.

**Factor 2.** The alleged perpetrator is or has been within the past year, a counselor or therapist providing mental health services to the dependent adult.

**“Counselor or therapist”** means a physician, psychologist, nurse, professional counselor, social worker, marriage or family therapist, alcohol or drug counselor,

member of the clergy, or any other person, whether or not licensed or registered by the state, who provides or purports to provide mental health services.

**“Mental health service”** means the treatment, assessment, or counseling of another person for a cognitive, behavioral, emotional, mental or social dysfunction, including an intrapersonal or interpersonal dysfunction.

**Factor 3.** One of the following occurred between the dependent adult and the alleged perpetrator as a result of the acts or omissions of the alleged perpetrator:

- Sexual conduct including but not limited to kissing, touching clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes or genitals; **or**
- A sex act; **or**
- Pattern of practice or scheme by the alleged perpetrator to engage in sexual conduct with the dependent adult, including but not limited to kissing, touching clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes or genitals; **or**
- Pattern of practice or scheme by the alleged perpetrator to engage in a sex act with the dependent adult.
- Credible evidence may include:
- Statements of the dependent adult, alleged perpetrator, or witnesses that at least one of the above did occur between the dependent adult and the alleged perpetrator.
- Statements of the dependent adult, alleged perpetrator, or witnesses that the alleged perpetrator had been planning with the dependent adult to engage in at least one of the above.

- Written statements of the dependent adult or alleged perpetrator in the form of notes or letters to each other or to other persons, which would lead a reasonable person to infer that sexual conduct between the two had happened or was being planned.

**Factor 4.** The sexual conduct was committed for the purpose of arousing or satisfying the sexual desires of the counselor or therapist or the dependent adult.

Credible evidence may include:

- Statements of the dependent adult, the alleged perpetrator or witnesses, or circumstantial evidence which indicates that the actions of the alleged perpetrator were performed with the dependent adult for the purpose of arousing or satisfying the sexual desires of either of them.
- Physical evidence which indicates that alleged perpetrator was sexually aroused during contact with the dependent adult, such as suggestive photographs or other depictions of the dependent adult, or letters describing the sexual feelings of the alleged perpetrator toward the dependent adult.
- Observation by persons having knowledge of the therapeutic relationship (such as others in treatment, coworkers of alleged perpetrator, the dependent adult's family, etc.) of the appearance, behavior, or statements of the alleged perpetrator which indicate a sexual rather than a professional interest in the dependent adult.

**Factor 5.** The sexual conduct was not necessary as part of an examination or treatment to the dependent adult within the scope of practice or employment of a counselor or therapist.

Credible evidence includes statements of the dependent adult, the alleged perpetrator, witnesses, or administrative staff at the facility that the sexual conduct which took place between the adult and the counselor or therapist was not part of a legitimate physical or sexual examination or treatment for a physical or sexual problem sanctioned by the facility and approved by the dependent adult's guardian or custodian.

**NOTE:** In most sexual abuse cases involving caretakers and dependent adults, one of the other sexual offenses would be present. This is the only type of sexual abuse in which an alleged perpetrator may receive a conclusion of "founded" dependent adult abuse for kissing or attempting to seduce a dependent adult.

Such behavior might not be considered a sexual offense under ordinary circumstances, but in a therapeutic relationship it does take on more serious overtones. In that situation, it has exploitative and potentially damaging aspects, even if no sex act ever happens, and the dependent adult victim is not frightened or "offended" by the behavior.

### **Founded Sexual Exploitation of a Dependent Adult by a Caretaker**

For a situation to be founded as sexual exploitation of a dependent adult by a caretaker, the report must include credible evidence of **three** factors. They are:

**Factor 1.** The adult subject is a **dependent adult**,

**Factor 2.** The alleged perpetrator is a **caretaker**.

**Factor 3.** As a result of the acts or omission of the caretaker, any of the following have occurred:

- Any consensual or nonconsensual sexual conduct, including but not limited to kissing, touching clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes or genitals; **or**
- A sex act; **or** (See [Definitions and Terms](#).)
- Any transmission, display, or taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of the dependent adult by the caretaker for the purpose not related to treatment or diagnosis or as part of ongoing assessment, evaluation or investigation.

**NOTE:** Sexual exploitation does **not** include:

- Touching which is a 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.
- Touching between spouses.

Credible evidence may include one of the following:

- Information provided by a credible perpetrator or victim. The information obtained should include a precise description of the type of sexual conduct.
- Observation of the sex act by a credible person. The information obtained should include a precise description of the type of sexual conduct.
- Diagnosis or verification by a competent medical practitioner of the presence of genital injuries or disease that could not exist in the absence of a sex act.
- Verification by a competent professional of the presence of the perpetrator's sperm in the dependent adult's anus, mouth, vagina, or genital area.
- Verification by a competent professional of the presence of body tissue of the perpetrator on the dependent adult or body tissue of the dependent adult on the perpetrator which could not exist in absence of a sex act.

### **Founded Sexual Abuse: Invasion of Privacy – Nudity**

For an allegation to be founded as an invasion of privacy, the report must include credible evidence of **three** factors. They are:

**Factor 1.** The adult subject is a **dependent adult**.

**Factor 2.** The alleged perpetrator is a **caretaker**.

**Factor 3.** The caretaker knowingly views, photographs or films the dependent adult or allows another to view, photograph or film the dependent adult for the purpose of arousing sexual desire of any person **and all of the following are true:**

- The dependent adult does not consent or is unable to consent to being viewed, photographed or filmed; and
- The dependent adult is in a state for full or partial nudity; and
- The dependent adult has a reasonable expectation of privacy while in a state of full or partial nudity.

Credible evidence may include the following:

- Observation of the invasion of privacy by a credible person, or
- Copies of the photographs, or
- Copies of films, or
- Copies of videotapes, or
- Any other recording or transmission of the images of a dependent adult in a state of full or partial nudity.

### **Suggested resources for sexual abuse cases:**

- Attorney
- County attorney
- Credible witness
- Educator
- Homemaker
- Hospital records
- Law enforcement
- Mental health worker
- Multidisciplinary team
- Other medical records and reports
- Other physical evidence
- Physician
- Psychiatrist
- Psychologist
- Scholarly journals
- Sexual assault kit

- Textbooks or other educational materials
- Visiting nurse

Someone who works with person who has specific challenges (such as intellectual disability) might be helpful in conducting the interview.

**Decision-making questions for sexual abuse cases:**

- Does the victim understand the consequences of the act?
- Is the victim capable of consenting to sex?
- Does the victim have reason to have knowledge of sexual behavior?
- Were there any injuries?
- Were there any threats?

**Founded Exploitation**

For a situation to be founded exploitation, the report must include credible evidence of **five** factors. They are:

**If the exploitation occurred on or after July 1, 2025 utilize the following factors:**

**Factor 1.** The adult subject is a dependent adult.

**Factor 2.** The alleged perpetrator is a caretaker or fiduciary of the dependent adult.

**Factor 3.** The caretaker or fiduciary engaged in an attempt, act, or process to use the dependent adult's physical or financial resources.

**Factor 4.** The caretaker or fiduciary used, or initiated an act or process attempting to use, the dependent adult's physical or financial resources through means that involved one or more of the following actions:

- Fraudulent, **or**
- Illegal, **or**
- Unauthorized, **or**
- Improper

**Factor 5.** The act or process attempt to use, or use of the dependent adult's physical or financial resources by the caretaker or fiduciary was for one or more of the following purposes:

- For monetary or personal benefit, for profit or gain, **or**
- To deprive the dependent adult of the use of their physical or financial resources, including any benefits, belongings, or assets.

**and/or**

**If the exploitation occurred on or prior to June 30, 2025 utilize the following factors:**

**Factor 1.** The adult subject is a **dependent adult**. (The victim must be dependent at the time of the exploitation.)

**Factor 2.** The alleged perpetrator is a **caretaker**.

**Factor 3.** The caretaker engaged in the act or process of **taking unfair advantage** of the dependent adult's physical or financial resources or allowed another individual to take unfair advantage of the dependent adult by one or more of the following:

- Theft; **or**
- Unduly influenced; **or**
- Harassment; **or**
- Under duress (compulsion by threat); **or**
- Deception; **or**
- Falsely represented; **or**
- False pretenses (claim not supported by fact)

**Factor 4.** A dependent adult **did not give informed consent** to the use of the dependent adult's physical or financial resources or to the transaction when the dependent adult was taken advantage of by the perpetrator.

The dependent adult did not agree to allow something to happen that was based on a full disclosure of known facts and circumstances needed to make the decision intelligently. The dependent adult did not have knowledge of risks involved or alternatives.

Credible evidence may include information provided by a credible person that the dependent adult agreed to the transaction when the dependent adult was taken advantage of or to have the dependent adult's resources used without:

- Understanding the consequences of the transaction.
- Understanding how the money or resources would be used.

- Being told what the consequences of the transaction would be.
- Being told how exactly the money or resources would be used.
- Being given alternatives for the transaction that would not take advantage of the dependent adult.
- Being given alternative uses for the money or resources.
- Being told the risks involved in the transaction that would take advantage of the dependent adult.
- Being told the risks involved in using the money or resources.

If you have a case where exploitation occurred only on or before June 30, 2019, contact the HelpDesk for further guidance on how to properly factor. The transaction must have been for personal or pecuniary profit of the perpetrator.

**Suggested resources for exploitation cases:**

- County attorney, law enforcement, and clerk of court
- Social Security, Veterans Administration, retirement or pension records
- Bank statements and other financial records (including bills)
- Family attorney or accountant
- Area agency on aging
- HHS income maintenance workers
- Consumer protection through the Attorney General's office
- Long-term care ombudsman through the Department of Elder Affairs
- Legal Services Corporation of Iowa or Iowa Protection and Advocacy Services, Inc.
- Mental health expert to determine dependent adult's capability of comprehending financial transactions or other transactions Office of Substitute Decision Maker

**Decision-making questions for exploitation cases:**

- How did the caretaker or fiduciary gain access to the dependent adult's financial or physical resources?
- Are there unexplained withdrawals, transfers, or changes in financial accounts?
- Have any financial accounts been closed, drained, or significantly altered?
- Are there any missing physical assets, such as vehicles, jewelry, property, or household goods?
- Is the dependent adult unable to meet basic needs (e.g., housing, food, medical care) as a result of diminished financial resources?
- Has the dependent adult incurred new debt, unpaid bills, or utilities being disconnected?

- Has the dependent adult's standard of living declined despite adequate income or assets?
- Is there evidence of forged documents, altered financial statements, or misrepresentation to financial institutions?
- Has the caretaker used the dependent adult's resources (vehicles, property, utilities) for their own personal use?
- Have living expenses for the caretaker or fiduciary (food, travel, entertainment, cell phone, utilities) been paid using the dependent adult's money?
- Were assets sold or transferred into the caretaker or fiduciary's name? (property, vehicles, insurance policies, investments?)
- What did the dependent adult understand about how the money was to be spent?
- Were the resources used to the benefit of the dependent adult?
- What is the relationship between the dependent adult and the person who has control of the resources?
- What did the dependent adult understand about the transaction that took advantage of the dependent adult?
- Were there alternatives that were not explained to the dependent adult?

**NOTE:** It is not necessary to prove that the dependent adult was harmed or that basic needs were not met. Also, it is not required to prove that the exploitation was successful. Any actions taken in effort to exploit the adult should be considered.

### **Founded Denial of Critical Care Due to the Adult's Own Actions (Self-Denial)**

For a situation to be founded as denial of critical care due to the adult's own actions, the report must include credible evidence of **three** factors. They are:

**Factor 1.** The adult subject is a **dependent adult**.

**Factor 2.** As a result of acts or omissions by the dependent adult one of the following has occurred:

- A pattern of the dependent adult depriving self of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary for themselves; **or**
- The occurrence of a significant event which resulted in deprivation of the dependent adult minimum needs for food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain life or health.

**NOTE:** A **significant event** is something that happens that is unusual, unintended, or unexpected that could or did lead to harm.

**Factor 3.** The Dependent adult is financially able to purchase services or been offered financial and other reasonable means to provide services.

**Suggested resources:**

- Medical professionals
- Mental health professionals
- Medical records
- Mental health records
- Law enforcement
- Ambulance drivers

**Decision-making questions for denial of critical care cases:**

- What health and mental health issues does the adult subject have? How serious are they?
- Are they being treated?
- Is the adult subject aware of their health or mental health issues?
- Does the adult subject appear to have the capacity to make informed decisions?

A dependent adult, who has no cognitive impairments and is able to rationalize the consequences of their decisions, has the right to make unhealthy choices. Living in a dirty house or eating junk food, in and of itself, is not-denial of care.

**NOTE: A founded report of denial of critical care due to the adult's own actions does not result in the dependent adult's name going on the Registry as a founded perpetrator.** The data on the report is kept in the Registry for statistical purposes, but the narrative of the report is kept in the Dependent Adult Reporting and Evaluation System (DARES).

**Founded Denial of Critical Care: Failure to Provide Adequate Food**

For a situation to be founded as denial of critical care: failure to provide adequate food, the report must include credible evidence of **six** factors. They are:

**Factor 1.** The adult subject is a **dependent adult**.

**Factor 2.** The alleged perpetrator is a **caretaker**.

**Factor 3.** The dependent adult does not have adequate **food**, This needs to be based on evidence from a credible person. Credible evidence could include one of the following:

- A medical chart which documents a pattern of weight gain or loss, accompanied with observation by a credible person of the dependent adult's diet over the corresponding time period.

- A medical diagnosis provided by a credible person showing that the medical condition resulted from dietary deficiencies. The presence of the condition is circumstantial evidence.

**Factor 4.** The dependent adult is in immediate or potential **danger** to health or safety which could result in injury or death. Credible evidence could include a medical chart or diagnosis showing a medical condition or death resulting from diet deficiencies.

**Factor 5.** The denial of critical care occurred as a result of the acts or omissions of the **caretaker**.

**Factor 6.** The dependent adult or the caretaker has **financial** means or has been offered financial means to provide adequate food.

**Suggested resources:**

- Visiting nurse and/or other care providers
- Physician
- Check to see if there is food in the home

**Decision-making questions:**

- Does the dependent adult have the ability and the facilities to cook or prepare food?
- If there is food, is it spoiled or contaminated or passed its expiration dates?
- If the dependent adult receives mobile meals, are there empty or full meal boxes?
- Is the garbage fresh?
- Does the dependent adult use false teeth, if needed?
- Is the dependent adult maintaining weight or losing weight?
- Is the dependent adult on a special diet? If so, does the adult or caretaker understand the consequences of not following the diet?
- Does the dependent adult or caretaker have the capacity to understand the need for an adequate diet?
- Did the dependent adult have the opportunity to receive services or the funds to purchase them?

**Founded Denial of Critical Care: Failure to Provide Adequate Shelter**

For a situation to be founded as denial of critical care: failure to provide adequate shelter, the report must include credible evidence of **six** factors. They are:

**Factor 1.** The adult subject is a **dependent adult**.

**Factor 2.** The alleged perpetrator is a **caretaker**.

**Factor 3.** The dependent adult does lacks adequate **shelter**. Evidence must be from a credible person. Credible evidence could include power company records to show a pattern of lack of provision of heat, with corresponding weather records and medical estimates of effects on the dependent adult, to illustrate immediate or potential danger to the dependent adult.

**Factor 4.** The dependent adult is in immediate or potential **danger** to health or safety, which could result in injury or death. Evidence must be from a credible person. Credible evidence could include:

- Medical records showing actual or potential danger to the dependent adult.
- Health department records showing actual or potential danger to the dependent adult.

**Factor 5.** The denial of critical care occurred as a result of the acts or omissions of a **caretaker**.

**Factor 6.** The dependent adult or the caretaker has **financial** means or has been offered financial means to provide adequate shelter.

**Suggested resources:**

- Sanitary engineers
- Building inspector
- County health department
- Visiting nurse
- Care provider
- Utility company
- Fire department

**Decision-making questions:**

- When looking at the home, is there:
  - A life-threatening lack of heat?
  - Unsanitary conditions
  - Hazardous conditions?
- Does the adult subject have no shelter at all?
- Does the adult subject understand the danger of a hazardous or unsafe environment?

### **Founded Denial of Critical Care: Failure to Provide Adequate Clothing**

For a situation to be founded as denial of critical care: failure to provide adequate clothing, the report must include credible evidence of **six** factors. They are:

**Factor 1.** The adult subject is a dependent adult.

**Factor 2.** The alleged perpetrator is a caretaker.

**Factor 3.** The dependent adult lacks adequate clothing necessary for the dependent adult's health and welfare. Credible evidence may include:

- Observation and documentation by a credible person of the dependent adult's manner of dress, which indicates that the clothing provided was not adequate to meet the dependent adult's needs.
- Documentation of weather records, which would confirm weather conditions from which the dependent adult's manner of dress would not adequately protect the dependent adult.

**Factor 4.** The dependent adult is in immediate or potential **danger** to health or safety which could result in injury or death. Evidence must be from a credible person. Credible evidence could include observations by a credible person as to the lack of adequate clothing, weather reports, and medical estimates of potential or actual danger because of lack of adequate clothing in this situation.

**Factor 5.** The denial of critical care occurred as a result of the acts or omissions of the **caretaker**.

**Factor 6.** The dependent adult or the caretaker has **financial** means or has been offered financial means to provide adequate clothing.

#### **Suggested resources:**

- Local radio station or newspaper for temperature
- Weather bureau
- Law enforcement
- Health Practitioner

#### **Decision-making questions:**

- How long was the dependent adult inadequately clothed?

### **Founded Denial of Critical Care: Failure to Provide Necessary Mental Health Care**

For a situation to be founded as denial of critical care: failure to provide necessary mental health care, the report must include credible evidence of **five** factors. They are:

**Factor 1.** The adult subject is a **dependent adult**.

**Factor 2.** The alleged perpetrator is a **caretaker**.

**Factor 3.** The dependent adult has a **serious mental health condition**. Evidence must be from a credible person. Credible evidence could include:

- Diagnosis from a credible mental health professional.
- Statements from credible witness as to behavior of the dependent adult, which suggests a serious mental health condition.
- Evidence that the caretaker, if there is one, knows of or should reasonably know that the dependent adult has a serious mental health condition.

**Factor 4.** The caretaker **refuses to obtain a mental health evaluation or treatment** for the dependent adult. Credible evidence could include written documentation from a mental health professional or physician showing that a recommendation for evaluation or treatment was made. Use credible evidence to show that the caretaker or dependent adult failed to act on the recommendations.

**Factor 5.** The dependent adult or caretaker has **financial** or other means to provide adequate mental health care.

#### **Suggested resources:**

- Psychiatrist
- Psychologist
- Mental health counselor
- Mental health outreach worker
- Physician
- Visiting nurse
- Day treatment program
- Law enforcement
- Ambulance reports

#### **Decision-making questions:**

- Is the dependent adult oriented to place, time, and situation?
- Was the dependent adult informed of the need for mental health care before the referral?

- What are the long-term effects if treatment is not available or sought?
- Are there alternatives to the recommended treatment?

### **Founded Denial of Critical Care: Failure to Provide Proper Supervision**

For a situation to be founded as denial of critical care: failure to provide proper supervision, the report must include credible evidence of **six** factors. They are:

**Factor 1.** The adult subject is a **dependent adult**.

**Factor 2.** The alleged perpetrator is a **caretaker**.

**Factor 3.** The dependent adult was not provided proper **supervision**, which a reasonable and prudent person would exercise under similar facts and circumstances. Credible evidence could include:

- Evidence that the dependent adult does not have the ability to remove him or herself from an emergency situation which might occur.
- Evidence that a caretaker was selected who was known to be incapable of ensuring the safety of the dependent adult.
- Evidence that a dependent adult was abandoned.

**Factor 4.** The dependent adult is in immediate or potential **danger** which could result in injury or death. Evidence must be from a credible person. Credible evidence could include evidence that the dependent adult was left unattended in a bathtub, near an open flame, or in some other precarious situation.

**Factor 5.** The denial of critical care occurred as a result of the acts or omissions of the **caretaker**.

**Factor 6.** The dependent adult or the caretaker has the **financial** means or has been offered the financial means to provide proper supervision.

### **Suggested resources:**

- Medical professionals
- Mental health professionals
- Medical records
- Mental health records
- Law enforcement
- Ambulance drivers
- Medical records
- Record of prescriptions from pharmacy
- Physician
- Visiting nurses

**Decision-making questions:**

- What can and can't the dependent adult do?
- In what way have the dependent adult's limitations caused threatening conditions?
- Is the dependent adult capable of self-supervision, and if so, for how long?
- What is the history of the caretaker?
- Does the caretaker know the dependent adult's challenges?
- Does the caretaker admit the adult has limitations?
- What medications are prescribed to the dependent adult?
- What are the dates on the medications?
- How many pills does the dependent adult have left?
- How many physicians is the dependent adult going to?
- When and how many pills are taken?
- Have there been any missed medical appointments?
- Does the dependent adult know about and understand the need for medical care?
- What is the level of risk if medical treatment is not sought?
- How long has the dependent adult maintained specific religious beliefs?

**Founded Denial of Critical Care: Failure to Provide Adequate Physical Care**

For a situation to be founded as denial of critical care: failure to provide adequate physical care, the report must include credible evidence of **six** factors. They are:

**Factor 1.** The adult subject is a dependent adult.

**Factor 2.** The alleged perpetrator is a **caretaker**.

**Factor 3.** The dependent adult lacks adequate **physical care**. Evidence must be from a credible person. Credible evidence could include:

- Failure to bathe resulted in skin breakdown.
- The dependent adult was repeatedly dropped or mishandled, resulting in injury.

**Factor 4.** The dependent adult is in immediate or potential **danger** to health or safety which could result in injury or death. Evidence must be from a credible person. Credible evidence could include the medical chart plus the physician's statement to show how lack of physical care could or did lead to serious illness, injury, or death.

**Factor 5.** The denial of critical care occurred as a result of the acts or omissions of the **caretaker**.

**Factor 6.** The dependent adult or the caretaker has **financial** or other means to provide adequate physical care.

**Suggested resources:**

- Medical records
- Visiting nurses
- Physician

**Decision-making questions:** Does either the caretaker or the dependent adult know how to provide or obtain physical care?

**Founded Personal Degradation**

For a situation to be founded as personal degradation, the report must include credible evidence of **three** factors. They are:

**Factor 1.** The adult subject is a **dependent adult**.

**Factor 2.** The alleged perpetrator is a **caretaker**.

**Factor 3.** One of the following occurred:

- Caretaker committed a willful act or statement intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a dependent adult; **or**
- 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; **or**
- Caretaker did not receive permission, or the dependent adult did not have the capacity to consent, to transmission or display of a recording or image **and** where the caretaker reasonably should have known the act would cause shame, degradation, humiliation, or harm when viewed by a reasonable person.

Credible evidence could include:

- Evidence the caretaker took an image or recording of a dependent adult and posted/exchanged/transmitted the picture to a public forum or private group chat for other's amusement.
- Evidence the caretaker made comments toward a dependent adult making them feel bad about an uncontrollable behavior or condition.
- Evidence the caretaker mocked the dependent adult.

NOTE: Personal degradation includes the taking, transmission, or display of an electronic image of a dependent adult by a caretaker.

NOTE: Personal degradation **does not** include any of the following:

- The taking, transmission, or display of an electronic image of a dependent adult for the purpose of reporting dependent adult abuse to law enforcement, the Department, or any other regulatory agency that oversees caretakers or enforces abuse or neglect provisions, or for the purpose of treatment or diagnosis or as part of an ongoing investigation.
- The taking, transmission, or display of an electronic image by a caretaker who takes, transmits, or displays the electronic image in accordance with the confidentiality policy and release of information or consent policies of a contractor, employer or facility or program not covered under DIA.
- A statement by a caretaker who is the spouse of a dependent adult that is not intended to shame, degrade, humiliate, or otherwise harm the personal dignity of the dependent adult.

**Suggested resources:**

- Visiting nurse and/or other care providers
- Physician
- Psychiatrist
- Psychologist
- Mental health counselor
- Day treatment program

**Decision-making questions:**

- Did the adult subject provide informed consent to the taking, transmission, or display of an electronic image?
- Is the dependent adult abuse to consent?
- What was the purpose for taking, transmission, or display of an electronic image?
- What, if any, was the response of other individuals to the taking, transmission, or display of the electronic image?
- What, if any, was the adult's response to the statement made?
- Who was in audience to the statement and what was their response?
- Would a reasonable person find the statement shaming, degrading, humiliating, or harmful?
- What is the typical pattern of conversation between the caretaker and the adult? Do they make liberal use of swearing or vulgar words in the course of conversation to one another?

### **Confirmed, Not Placed on the Registry**

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

When physical abuse, denial of critical care, or personal degradation 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 in the Dependent Adult Reporting and Evaluation System (DARES). Access to confirmed, not registered reports will be authorized pursuant to Iowa Code 235B.6(3). To determine if the physical abuse, denial of critical care, or personal degradation is “minor, isolated, and unlikely to reoccur” consider the following:

#### **Physical Abuse (Injury, Assault, Unreasonable Confinement, Unreasonable Punishment)**

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 has the capacity 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 dependent 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.

### **Personal Degradation**

Determine if an allegation of personal degradation is **minor** by considering:

- The size and scope of the audience witness to the incident.
- The potential of ongoing shame, degradation, humiliation, and harm to the dependent adult person dignity.
- The response from the dependent adult during the incident.

Determine if an allegation of personal degradation 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 personal degradation is **unlikely to reoccur** by considering:

- Whether the caretaker expressed genuine remorse for the incident.
- Whether factors contributing to the abuse continue to exist, are ongoing, or are no longer present.

### **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 business 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. More information regarding departmental services is located at [Voluntary Dependent Adult Abuse Services](#).

NOTE: If you determine that the adult subject is a dependent adult and is at moderate or high risk, 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, conservator, or payee;
- Persuade the dependent adult or caretaker to accept services;

- Dependent adult or caretaker agree to a safety plan to be to be monitored by other credible support; or
- Sufficient supports or services are already in place to meet the dependent adult's needs.

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

### **Report Completion**

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

Complete a report on all evaluations and assessments within 20 business days of the receipt of the allegation of dependent adult abuse. Use form [470-0688, Dependent Adult Protective Services Evaluation or Assessment Summary](#) in the DARES module.

EXCEPTION: The 20-business -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.

The **Dependent Adult Protective Services Evaluation or Assessment Summary** 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. The narrative report shall include information on the following:

- **Allegations.** Include a detailed and complete statement of each allegation made by the reporter. 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, identity, or relationship of the reporter in this or any other section of the narrative.

- **Actions taken during the assessment.** Summarize the steps taken to attempt to improve the safety or reduce the risk of abuse of the adult subject.
  - Document actions taken to locate, observe, and interview the adult subject. 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 adult subject. 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 reporter in the narrative. If you interview the reporter, 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 adult subject and conversations with the adult subject.
  - 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 adult subject 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.
  - 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.
- **Perpetrator Legal Remedy.** 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.
- **Interagency Coordination.** Use this section to specify all agencies to which the client was referred.

### **Report Approval**

Adult Protective Services Supervisors, designated Dependent Adult Unit Administrative Support staff with the appropriate classification, and Adult Protective Services Administration may approve an evaluation or assessment when all required report components have been completed satisfactorily and all expectations for the report have been met.

Adult Protective Services Supervisors, designated Dependent Adult Unit Administrative Support staff with the appropriate classification, and Adult Protective Services Administration may not approve an evaluation or assessment if there is insufficient report information concerning the following:

- The adult subject has not been observed or there is no clear documentation of waived timeframes or reasonable efforts.
- The adult subject has not been interviewed or there is no clear documentation of reasonable efforts to offer an interview.
- The alleged person responsible has not been interviewed or there is no clear documentation of reasonable efforts to offer an interview.
- Appropriate collateral contacts interviews and/or physical/ documentary evidence was not obtained to support the disposition outcome.
- The living environment(s) have not been observed or there is no clear documentation of reasonable efforts to observe them.

If any of the above conditions have not been met, the approving authority shall place the report on [extension](#) and consider appropriate [court intervention](#), if appropriate. All efforts made to remedy the insufficient report information must be documented in the Summary of Contacts prior to finalization and approval of the report.

The following sections give more information on:

- Supporting Documents/ Records
- [Quick Case Closure](#)
- [Extensions](#)
- [Addenda](#)

### **Supporting Documents/ Records**

When receiving documents or records from external sources, 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.

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 document or record, but do not include information that is not related to the dependent adult abuse allegation.

Upload documents under the File Manager tab in DARES.

### **Quick Case Closure**

Legal reference: 441 IAC 176.7(3)

Quick closures are a critical tool for ensuring cases are addressed by the proper authority while minimizing unnecessary investigative efforts by HHS staff. A quick case closure may be completed when information in the evaluation or assessment fails to corroborate the allegation of dependent adult or the assessment belongs to another investigative entity, such as the Iowa Department of Inspections, Appeals, and Licensing (DIAL). With the approval of your supervisor, you may terminate the assessment or evaluation and submit the report.

One of the most common scenarios where this occurs is when HHS has accepted an assessment, initiated contact, and later determined that the Department of Inspections, Appeals, and Licensing (DIAL) has jurisdiction.

To complete a quick case closure, first ensure you document all contacts made and review any documents gathered during the assessment. In the assessment findings, clearly state how it was determined that the case does not need to have a full thorough investigation.

An example of language to use in your documentation:

“Pursuant to Iowa Code 235B.3(1)(a)(1), HHS responds to “reports expeditiously”. However, Iowa Code 235B.3(1)(2) indicates that “the department of inspection, appeals, and licensing is solely responsible for the evaluations and disposition of dependent adult abuse cases within facilities”. HHS has verified that the allegations initially reported are within the jurisdiction of DIAL. Therefore, this evaluation is being terminated, will be categorized as **Unfounded**, and will be referred to the appropriate jurisdictional entity.”

Statements like the above example or portions of the statement can also be used in other sections of the assessment, such as for completion of the factoring, the safety assessment or dependency assessment, to reflect the reason for quick case closure. Once jurisdiction is confirmed to belong to another agency like DIAL, the investigation should cease, and the case should be turned over to the appropriate jurisdictional entity. Ensure you are documenting your referral to the specified jurisdictional entity in the contacts.

### **Extensions**

Legal reference: 441 IAC 176.6(4)

If the evaluation or assessment takes longer than 20 business 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.

All case narrative and documentation are to be complete and up-to-date in order to request and grant an extension. This includes uploading all relevant documents into DARES File Manager.

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, psychological, or financial 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 result in worker or supervisor being unavailable (illness, emergencies).
- Necessary information or interview results from another jurisdiction are not yet available.

Extensions may be requested in 10 business 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 business days, no more than three extensions shall be granted.

The supervisor has final authority in determining the number of days the extension will be granted. Although up to three extensions of 30 days are allowed, the approved extension time will be based the reason provided, rather than automatically granting the maximum allowable time.

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

Request an extension in DARES as follows:

1. Click Request Extension.
2. Select an extension reason as noted above.

Business days requested will be 30. DARES only allows you to choose “30 business days.” However, your supervisor may approve a lower number of business days depending on the reasons you need for the extension.

3. Click on the “Request Extension” button.

Supervisors will ensure case narratives and documents have been uploaded into DARES File Manager prior to approving the extension request.

Emergency exceptions may be considered for approval of extensions without documentation entered into the narrative. For an exception to be granted, the supervisor must obtain approval from the Program Director or designee.

If there is a need for an extension to go beyond the 110 business days, an Exception to Policy (ETP) must be submitted and approved prior to the 110<sup>th</sup> business day.

To be eligible for an exception to policy, you must have a reason for good cause for the extension. Supervisor must have approval of Program Director or designee to

submit a request for extension utilizing form [470-3888 Petition for Exception to Policy](#). The form must be completed and submitted to [exceptions@hhs.iowa.gov](mailto:exceptions@hhs.iowa.gov). Upload a copy of the request into DARES File Manager.

An email will automatically be sent to your supervisor.

### **Addenda**

Legal reference: 441 IAC 176.6(4)

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 7 business days of the ALJ order.
- 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, add, or provide corrected information to the original report. Include new or corrected information in the addendum.
- 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 DARES.
- If there is an open service case, notify the assigned caseworker of the changes to the original report.

### **Destruction of Notes**

Upon completion of assessments/evaluations, extensions, or addendums, all case notes must be promptly destroyed by shredding or permanently deleting them. Any screening tools, gathered documents, reports, or photographs should be uploaded into File Manager, and hard copies must be destroyed only after ensuring they successfully loaded into DARES File Manager. Only you or your supervisor are authorized to carry out the destruction of these materials.

### **Notification and Correspondence**

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

- [Notifying subjects and others of the outcome of the assessment or evaluation.](#)
- [Notice of termination for an agent's authority under a POA.](#)
- [Notifying the facility of problems with policy or procedure \(if applicable\).](#)

### **Notice of Outcome to Subjects and Others**

Legal reference: 441 IAC 176.9

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. Iowa Code 235B.6(2)(a)

Use form [470-2444, Dependent Adult Abuse Outcome Notification](#) in DARES to provide written notice of the result of a dependent adult abuse evaluation or assessment to:

- All subjects of the evaluation or assessment, including:
  - The adult subject.
  - The guardian of the dependent adult victim.
  - The alleged perpetrator.
- All mandatory reporters who reported suspected abuse that has been evaluated or assessed.
- An HHS 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 adult subject.

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 Termination for Agent's Authority under Financial Power of Attorney**

Legal reference: Iowa Code 633B.110(2)(e)

A court order to terminate an agent's authority under a financial power of attorney is not necessary. When HHS finds a report of dependent adult abuse on the agent as the named perpetrator for ANY kind of abuse against the protected person as the dependent adult subject, the financial power of attorney is automatically terminated.

The provision only applies to agents under a financial power of attorney. An agent under a health care power of attorney retains authority following a founded report.

NOTE: The founded abuse can be **any** category of abuse and is not restricted to cases of financial exploitation.

### **Providing Notice**

At the conclusion of the evaluation factoring, insert the statement: "Pursuant to Iowa Code 633B.110(2)(e), an agent's authority under a financial power of attorney terminates when the agent is named as having abused the principal in a founded dependent adult abuse report.

Send form [470-5699, Dependent Adult Notice of POA Termination](#) to notice the perpetrator/financial POA agent, adult subject, financial institution, guardian (if applicable), and/or nursing facility/care provider (if applicable). Sending notice is vital because Iowa Code indicates that termination is not effective if the agent acts in good faith and have no knowledge of the termination.

### **Written Translation and Accessible Formats**

After completing an evaluation, assessment, addendum, notice of outcome, copy of the report, or other necessary document, you must ensure recipients with limited English proficiency (LEP) receive the information in a language they can understand. If the individual's primary language is not English and they have limited ability to read, speak, write or understand English, the document may need to be translated to provide meaningful access. You should follow the most up-to-date Standard of Practice (SOP) policy for [Written Translations](#).

In addition, individuals who are blind, have low vision, or have other disabilities may require information in an accessible format to ensure equitable access. Accessible formats may include braille, large print, or accessible electronic documents. You should refer to the Standard of Practice (SOP) policy for [Braille, Large Print and Electronic Format Accessible Documents](#) for guidance on requesting these formats.

### **Evaluations in Facilities, Agencies, or Programs Not Covered by DIAL**

The Department evaluates dependent adult abuse allegations in the following community living facilities, agencies, or programs that are not health care facilities or programs:

- Family-life homes
- Hospice programs
- Respite care
- Waiver programs
- Vocational rehabilitation
- Sheltered workshops
- Work activity centers

These facilities, agencies, and programs are licensed, certified, or approved by the Iowa Department of Health and Human Services (HHS), and county governments.

**NOTE: Home and Community-Based Services (HCBS) –** Home and community-based services are **unregulated and unlicensed**. HCBS Oversight **monitors** waiver services under chapter 24 accreditation. (441 IAC 24)

The Iowa Department of Inspections, Appeals, and Licensing (DIAL) evaluates allegations of dependent adult abuse in the following facilities and programs that are licensed under Iowa Code Chapter 135C or certified or defined under Iowa Code Chapter 231B, 231C, or 231D **when the alleged perpetrator is a staff member:**

- Adult day services
- Assisted living programs
- Elder group homes
- Hospitals
- Intermediate care facilities for persons with mental illness
- Intermediate care facilities for persons with an intellectual disability
- Nursing facilities
- Residential care facilities
- State mental health institutes

**If the alleged perpetrator in a DIAL regulated facility is a caretaker, but not a staff member, HHS will conduct the evaluation.**

To find out if a facility, agency, or program is licensed by DIAL through Iowa Code Chapter 135C, go to the DIAL Facility website: <https://dia-hfd.iowa.gov>. **You must use Google Chrome or Microsoft Edge when accessing this website.** Enter information in the “entity search” field and click “search.”

### **Regulatory and Monitoring Authorities**

Evaluations of abuse reports in community living facilities, agencies, and programs are different from those in home settings, in that they may involve problems with policies and procedures or licensure and certification issues. Not all allegations of abuse involving community living facilities, agencies, and programs involve these other issues, but you must consider whether they do.

If you are assigned an evaluation in a community living facility, agency, or program, notify the administrator and licensure person as soon as possible.

**Agency administrator.** The on-site director or administrator of the program.

**Area agency on aging program manager.** The person in the local area agency on aging who manages the program.

**County central point of coordination administrator.** Every county has a central point of coordination administrator who is responsible for contracts with agencies in the community.

**HHS adult service worker.** HHS caseworker.

**HHS case manager.** Targeted case manager.

**HHS Long-Term Care Bureau chief.** Chief of the Bureau of Long-Term Care in the Division of Medical Services, Iowa Medicaid Enterprise.

**DIAL licensure surveyor.** Licensure surveyor for hospice programs through the Department of Inspections, Appeals, and Licensing. Licensure is voluntary, however. DIAL also certifies hospice programs for Medicare. Notify the DIAL complaint hot line at 1-877-686-0027.

**Guardian of dependent adult.** Some dependent adults have legal (court-appointed) guardians who are responsible for the well-being of the dependent adult.

**Home- and community-based specialist.** Home- and community-based specialists work in offices out in the community. If you don't know who the specialist is in your area, contact your county central point of coordination administrator.

**Mental Health and Disability Services Commission.** The regulating body that approves certificates of accreditation for case management, community mental health centers, community supported living arrangements, and other mental health services.

**Rehabilitation Resources Bureau policy coordinator.** The person responsible for accrediting the vocational rehabilitation programs through the federal Work Force Investment Act of 1998 for the state.

**Rehabilitation resources counselor.** Counselor for consumers in vocational rehabilitation programs, located in offices around the state. If you don't know who the counselor for the consumer you are working with is, contact your county central point of coordination administrator or call the state Rehabilitation Resources Bureau at 515-281-3041.

**Substance abuse licensure surveyor.** Licensure surveyor for substance abuse programs, through the Department of Public Health. If you don't know who the surveyor for the program you are conducting an evaluation in is, call the bureau chief for the substance abuse licensure surveyors at the Department of Public Health at 515-242-6514.

The following chart summarizes:

- The legal authority for the various programs,
- The agency responsible for determining whether the facility, agency, or program meets these standards, and
- The people that you need to notify when you begin an evaluation involving that type of facility, agency, or program.

<b>Facilities, Agencies, and Programs  Where HHS Completes Dependent Adult Abuse Evaluations</b>			
<b>Setting/Service</b>	<b>Governed by</b>	<b>Regulated by</b>	<b>Notify when initiating evaluation</b>
Adult support	County contract	County central point of coordination administrator	Agency administrator, guardian of dependent adult, HHS case manager, or adult services worker
Boarding homes	Iowa Code Chapter 135O	Department of Inspections, Appeals, and Licensing	Service Help Desk and DIAL if there are regulatory issues
Case management Community mental health centers Community supported living Other mental health services	441 IAC 24	HHS Division of Behavioral Health	Agency administrator, MHDS quality assurance staff, guardian of dependent adult, HHS case manager, or adult services worker
Community supervised apartment living arrangement services	County contract	Due to the current mental health redesign, this section is currently under review and will be updated soon.	Agency administrator, guardian of dependent adult, HHS case manager, or adult service worker

<b>Facilities, Agencies, and Programs  Where HHS Completes Dependent Adult Abuse Evaluations</b>			
<b>Setting/Service</b>	<b>Governed by</b>	<b>Regulated by</b>	<b>Notify when initiating evaluation</b>
Home- and community-based waiver services, including: Supported employment Supported community living Case management services	441 IAC 77, 78, 83	HHS Division of Medical and Long-Term Services & Supports Long-Term Care	Agency administrator, Long-Term Services & Supports Bureau chief, HCBS waiver specialist, guardian of dependent adult, HHS case manager, or adult services worker
Hospice programs	Iowa Code Chapter 135J, 481 IAC 53	Department of Inspections, Appeals, and Licensing, Division of Health Facilities	Agency administrator, DIAL licensure surveyor, guardian of dependent adult, case manager
Sheltered work program Work activity program	County contract	Due to the current mental health redesign, this section is currently under review and will be updated soon.	Agency administrator, guardian of dependent adult, HHS case manager, or adult services worker
Substance abuse program	Iowa Code Chapter 125	HHS Division of Public Health	Agency administrator, HHS licensure surveyor, guardian of dependent adult, case manager
Vocational rehabilitation program	Federal Workforce Investment Act for 1998	Department of Education, Rehabilitation Resources Bureau	Agency administrator, RR policy coordinator, rehabilitation counselor of dependent adult, guardian of dependent adult, case manager

Contact the following regulatory authorities if the allegation of abuse includes issues addressed by these authorities or issues are discovered during your evaluation of abuse.

**Equal Opportunity Commission, U.S. Department of Labor**, addresses issues with agencies that have contracts to employ persons at less than minimum wage. (1-800-669-4000)

**Iowa Civil Rights Commission** addresses issues relating to civil rights, such as being discriminated against due to race or age. (1-800-457-4416)

**Iowa Department of Health and Human Services** division of Public Health addresses issues related to public health and the safety of persons living in unsafe living arrangements. (1-800-227-9878)

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

Iowa Workforce Development, **Division of Labor Services**, works with persons who have issues with employment. This includes persons working for less than minimum wages or working in unsafe conditions. (515-281-6374)

The **State Fire Marshall** works with issues relating to the safety of buildings such as the local fire department not addressing unattended safety concerns. (515-725-6145)

Depending on the allegations, you may want to coordinate your interviews with representatives from any of the above agencies or other entities concerned with quality of services, such as HCBS waiver program specialists.

### **Boarding Homes**

Legal reference: Iowa Code Chapter 135O

If the abuse referral concerns a dependent adult living in a boarding home, you may be asked to coordinate your interviews with other regulatory authorities, such as those listed in the section above. DIAL registers boarding homes and will address any issues relating to registration. (Iowa Code Chapter 135O)

Boarding home registration laws authorize interagency multidisciplinary teams to respond to allegations of violations of registration or allegations of abuse. HHS is authorized to respond to the allegations of abuse.

HHS Intake Units will work with the Service Help Desk to coordinate the multidisciplinary teams if it is known when the report of abuse is made that it concerns a boarding home. When you are assigned the evaluation of abuse, you will be notified what other agencies are involved and specifically who to contact. Because of HHS time lines for evaluating alleged abuse of dependent adults, you will most likely be making the initial home visit before any other agencies.

If you discover that the evaluation you have been assigned concerns a dependent adult living in a boarding home, immediately notify your supervisor. Either you or your supervisor shall contact the Service Help Desk for further instructions on how to proceed.

**Help Desk: 1-866-347-7782**

To find out if a facility is a registered boarding home with DIAL under Iowa Code Chapter 135O, go to <https://dial.iowa.gov/i-need/licenses/health/boarding-homes>, the DIAL boarding home website.

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 unsafe conditions. Contact the state office at 866-239-0843.

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 [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 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, 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.

The Department of Inspections, Appeals, and Licensing (DIAL) may request HHS conduct assessments on all the occupants of a boarding home to determine if they are dependent while DIA is investigating for possible violations of boarding home registration rules. Should DIA request HHS conduct assessment on occupants to determine dependency with no allegation of abuse, do not enter an evaluation in DARES, but rather complete an assessment on form [470-4841, Dependent Adult Assessment Tool](#) and store as a hard copy only.

If you are assigned to complete these assessments, you do not have to follow the 20-business -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.

### **HHS Responsibilities for Allegations of Abuse in Health Care Facilities**

HHS staff are responsible for evaluating alleged abuse of a dependent adult who is a resident of a health care facility, elder group home, assisted living program, or adult day service program when:

- The alleged perpetrator is a caretaker other than facility or program staff members. This includes an allegation of financial exploitation when someone outside of the facility or program has control of the dependent adult's finances.
- The alleged abuse occurred when the dependent adult was out of the facility or program with a caretaker other than facility staff members.

In such cases, an evaluation of alleged dependent adult abuse of a resident of a health care facility, elder group home, or adult day program is conducted the same as an evaluation of a dependent adult abuse living in the community.

### **Initial Contacts in Community Living Facilities, Agencies, or Program Settings**

For facilities, agencies, and programs, the administrator or director is typically the principal contact person. Ask the facility, agency, or program administrator or director to designate primary contact personnel for business hours and for evening and weekend hours.

Contact registration, licensing, or regulating personnel regarding the allegations and licensing issues.

For programs involving HCBS waiver services, contact HCBS Oversight for monitoring of Chapter 24 accreditation standards. (DHS, HCBS IR at [hcbsir@hhs.iowa.gov](mailto:hcbsir@hhs.iowa.gov).)

Contact with the administrator or director may be simultaneous with the first visit to the facility, agency, or program. If the administrator or director is the alleged perpetrator, seek supervisory or program consultation for consideration of alternative notification. When appropriate, in compliance with local protocol, notify law enforcement.

Notify appropriate personnel within the HHS chain of command as required by local protocol. Notify the caseworker for the dependent adult. Involve the caseworker in the evaluation and keep the caseworker apprised of developments, as appropriate.

### Initial Contacts

When you are assigned a dependent adult evaluation involving a facility, agency or program (i.e., waiver home), contact the following:

**FACILITY, AGENCY, OR PROGRAM DIRECTOR OR ADMINISTRATOR:**

- Inform the director/administrator of the report.
- Arrange for safety (alleged victim and others).
- Document the director/administrator's plan to keep residents safe.
- Make arrangements to interview the alleged victim and other relevant collateral sources.
- Identify a contact person (may be the director/administrator).
- Identify interviewees (as much as possible).
- Plan for personal visit to facility.
- Identify documents needed:

Information from alleged perpetrator's personnel file:

- Job description including requirements and responsibilities
- Clarifications, reprimands, disciplinary actions
- Dependent adult abuse registry check and criminal history check
- Policy and procedure 'check-off'
- Relevant training history
- Mandatory reporter training certification
- Keep the administrator or the administrator's designee informed as to the progress of the assessment.
- If the administrator is alleged to be the person responsible for the abuse, consult with supervisory staff regarding how to proceed with the assessment.

**LICENSING/MONITORING WORKER FOR THE FACILITY, AGENCY, OR PROGRAM:**

Provide information regarding the report to the licensing worker or monitoring entity. For residential facilities, the licensing inspection worker is employed by the Department of Inspections and Appeals. Contact the DIAL coordinator for consultation. Document these contacts with (or attempts to contact) the licensing worker, monitoring entity or registration worker in the written report.

Ask the licensing worker or monitoring entity to assist in conducting the assessment. The licensing worker or monitoring entity can provide information on whether the facility, agency or program's policies and procedures comply with licensing standards and/or chapter 24 accreditation. This allows you to focus on the specific report of abuse.

It is not necessary for the licensing worker or monitoring entity to be present during every visit or interview conducted at the facility, agency or program. Try to agree upon which aspects of the assessment you will do jointly or separately.

- Inform of allegations
- Determine roles and strategy
- Plan for joint personal visit to facility if possible

**SERVICE CASE WORKER:**

A dependent adult who resides in a facility or waiver program is likely to have a caseworker assigned. Contact the service caseworker for the subject, if applicable. Document these contacts (or attempts to contact) in the written report. The caseworker can provide information about the dependent adult, the facility or program, and may wish to participate in interviewing the dependent adult and other collateral sources.

- Inform of allegations
- Inform of plan

**FAMILY (LEGAL GUARDIAN):**

- Inform of allegations
- Inform of plan

**OTHER HHS PERSONNEL (VARIES ACCORDING TO LOCAL POLICIES AND PROCEDURES):**

Service area administrator, service supervisor (may be more than one).

- Inform of allegations
- Inform of plan

**LAW ENFORCEMENT:**

- Inform of allegations
- Develop a plan for joint investigation

Use form [470-3860, Dependent Adult Abuse Checklist for Facility, Agency or Program](#) to assist the facility, agency or program director, administrator or other person in charge, with a list of what is necessary to do and what documents to provide to the Department when there is an allegation of abuse of a dependent adult.

The protection worker with primary responsibility for the report completes the form and delivers the form in person or mails it if the person in charge is not available during the visit. Make two copies, one for the person in charge and one to upload into File Manager in DARES.

### **Role of Licensing, Certification, Policy Specialist, or other Personnel**

Contact the licensing worker, monitoring entity, or other policy specialist when a dependent adult abuse evaluation is initiated in a facility, agency, or program, so it can be determined if a joint evaluation is needed.

You may want the licensing worker or monitoring entity involved in the evaluation because licensing or accreditation violations could be part of a pattern of abuse or may have contributed to the abuse. Discuss the allegation with your supervisor and the licensing worker or monitoring entity to determine whether or not a joint evaluation is necessary.

You may consult the licensing worker or monitoring entity regarding facility licensing or accreditation standards at any point in the evaluation. If a joint evaluation is appropriate and necessary, the licensing worker or monitoring entity will focus on policy, procedure, practice, and documentation, which relate to specific standards. You will focus on the specific alleged abuse and how the policies and practices may have contributed to abuse.

The licensing worker or monitoring entity has a dual role in a dependent adult abuse evaluation. The first is the requirements for licensure, certification, accreditation, or registration. The other is to assist the HHS protective worker, law enforcement, and county attorney, as needed in the dependent adult abuse evaluation.

During the evaluation the licensing worker or monitoring entity will assist you with:

- Evaluating safety of the dependent adult.
- Providing relevant information regarding the facility, agency, or program including:
  - The history of the facility, agency, or program.
  - Personnel.
  - Past complaints.
  - Policy and programming.
  - Staffing practices.
- Communicating about the situation with central office licensing staff or other governing bodies.

The licensing worker or monitoring entity will be conducting a separate evaluation of policy and procedures concerning regulations or accreditation, which will include the following:

- Evaluating safety of dependent adults.
- Determining if licensing, accreditation or regulating laws have been violated.

- Documenting a summary of the complaint.
- Handling notifications or follow-up for licensing.
- Providing technical assistance and consultation to the facility, agency, or program to correct deficiencies and improve quality of service.
- Pursuing denial or revocation of the license, if necessary.

If an evaluation results in a founded report, the licensing worker or monitoring entity may choose to follow up to determine if:

- Legal remedies have been sought,
- The perpetrator is no longer working at the facility, agency, or program, or
- An evaluation has been conducted by HHS.

The licensing worker or monitoring entity will review any letter drafted by HHS for concerns related to policy, practice, or compliance with licensing, approval, accreditation, or registration rules. (See [Notice of Problems with Facility, Agency, or Program Policy or Practice](#).) The licensing worker or monitoring entity will follow up if there is an indication of a licensing or accreditation standard violation. The licensing worker or monitoring entity may request a corrective action plan from the facility, agency, or program.

Depending on the circumstances and evaluation information, a licensing or accreditation complaint investigation may be ongoing after completion of the dependent adult abuse evaluation. The licensing worker or monitoring entity may refer non-licensing problems to appropriate agencies (fire marshal's office, state health department, etc.).

### **Evaluation of Alleged Abuse in Facility, Agency, or Program Settings**

Evaluate the environment where the abuse occurred. Assess the relationships between the alleged perpetrator of abuse, the dependent adult, and any other dependent adults receiving care from the alleged perpetrator. Evaluate the chain of command to determine if someone is directly responsible for the abuse or if policy or practice led to the abuse.

Evaluate the facility, agency, or program's ability to adequately provide any special services required by dependent adults currently under their care, if the allegation relates to a patient or client not receiving adequate care for special need.

For example, if the alleged abuse concerned a person with Alzheimer's disease who was injured by a staff person trying to calm the patient who was acting out, assess the ability of staff to provide care to people who have Alzheimer's disease. Assess the facility, agency, or program's policies and procedures to determine their strengths and needs.

If you discover during the course of your evaluation that perpetrators of the alleged abuse had received inadequate training, evaluate the training program of the facility, agency, or program. Determine if the training is adequate to provide the types of skills required for staff to be able to provide adequate and safe care to the dependent adults currently receiving care from the facility, agency, or program.

### **Evaluating the Safety of the Dependent Adult**

If you determine that there is an **immediate risk** to the dependent adult's safety, ask the director or contact person of the facility, agency, or program what steps are going to be taken to address the safety of the dependent adult until the evaluation is completed. Steps may include the following:

- Placing the alleged perpetrator on leave status (vacation, leave with pay, leave without pay).
- Assigning the alleged perpetrator to duties that are not client related.
- Moving the dependent adult to another facility. (Consider this only after consulting the placing worker.) Consider the best interest of the dependent adult and safety issues.

Stress the risk of liability to the director or contact person of the facility, agency, or program if there is an unwillingness to take steps to address the safety issues of the dependent adult or other dependent adults receiving care from the facility, agency, or program.

If you and the licensing worker or monitoring entity are not satisfied with the way the safety issues were addressed by the facility, agency, or program, submit a written memo to the administrator of the Division of Adult, Children and Family Services. Take necessary steps to address the safety of the dependent adult and other dependent adults within the facility or program.

If you determine that there is an **ongoing** risk to the dependent adult's safety, evaluate:

- The dependent adult's safety and the risk of reoccurrence of abuse after making necessary observations, interviewing witnesses, and reviewing documents.
- The continued risk to the dependent adult and any other dependent adults residing in the same facility, or receiving care from the same agency or program.
- The safety/risk of other dependent adults accessible to the alleged perpetrator of abuse.

Make your determination by considering the following:

- Severity of alleged abuse.
- Corrective measures taken by the facility, agency, or program to provide safety.
- Services and supports available to the victim.

If you determine that the dependent adult is **not safe** in the current living arrangement, document that in your report and document your efforts to assist in providing safety for the dependent adult.

### **Evaluation Contacts in Facilities, Agency, and Program Settings**

During the evaluation process, evaluate the specific allegation of abuse in the context of the facility, agency, or program system. Address:

- The operation of the facility, agency, or program.
- The functioning of the alleged dependent adult and the alleged perpetrator within the system.
- The dynamics of the facility, agency, or program, as they relate to the abuse allegation.

The evaluation process may include:

- A physical inspection of the facility, agency, or program.
- A review of policies, procedures, reports, agency internal assessments, personnel files, the dependent adult's files, incident reports, and medical and mental health examinations.

Dependent adult abuse evaluations in facilities, agencies, or programs provide opportunities for gathering additional information generally not found in a family setting. Observe and interview the alleged dependent adult. Interview the alleged perpetrator or offer the opportunity to be interviewed. Interview people believed to have been in the area when the alleged abuse occurred, other witnesses, and people believed to have knowledge about the alleged abuse.

Keep the primary contact person of the facility, agency, or program informed as to the progress of the evaluation. Keep the alleged perpetrator informed as appropriate.

In the course of an evaluation, additional information or new allegations may surface. Such information or allegations may concern additional dependent adult victims or alleged perpetrators.

**NOTE:** You should not add other residents in congregate care settings as household members. Only the adult subject should be listed as a household member in the household composition of the assessment or evaluation.

If the new information or allegations involve other dependent adults or other caretakers or perpetrators, or are unrelated to the original allegations, you must open a **new separate evaluation for each additional**:

- Dependent adult victim,
- Perpetrator, or
- Unrelated allegation of abuse.

### **Evaluation and Interview Suggestions**

- Identify appropriate collaterals and work as a team in the evaluation process (licensing, monitoring, regulatory worker, law enforcement, long-term care resident's advocate, or other appropriate personnel).
- Consider tape recording interviews.
- Verify quotes or statements from interviews (especially of facility, agency, or program employees) before including the quotes or statements in a report.
- Use expert consultation, as needed.
- Fully inform the alleged perpetrator of appeal rights.

### **Interviews**

During the evaluation, you must observe the alleged abused dependent adult and interview the person if possible. You must also interview, or at least offer to interview, the alleged perpetrator. Other people you may wish to interview include the following:

- The alleged perpetrator's supervisor.
- The agency's administrator.
- An expert consultant.
- A family member or guardian.
- Anyone believed to have been in the area who may have witnessed the alleged abuse.
- Anyone believed to have knowledge about the alleged abuse, the dependent adult, or the alleged perpetrator.
- The reporter, if known.

In **all interviews**, record the following information:

- The time, place, and date the interview was conducted.
- A description of person interviewed (name, address, age, employment, relationship to subjects if any, etc.).

- Where the person was at the time of the alleged abuse.
- What the person actually saw, smelled, or felt.
- What the person actually heard. Make an effort to obtain actual quotes the person can give of the conversation heard.
- How long the alleged abuse lasted.
- What conditions were present that would affect the ability to see or hear (dark, light, background noise, etc.)
- What other persons were present.
- What the policies of the facility (agency, program) are concerning the specific situation.
- What the policy means and whether the person understands it.
- Whether there was adequate staff coverage at the time of the abuse.
- Whether the person recorded everything seen, smelled, or felt in an incident report.
- The names of the person's supervisor and supervisor's supervisor. (Determine whether the person knows specifically what the chain of command is.)

Use the person's style and grammar, as nearly as possible, in documenting the interview.

### **Handwritten Statements**

- On each page record the time, place, page number, and number of pages.
- Initial and witness any corrections.
- Always have carryover from one page to the other (page x of y).
- Sign each page.
- Include the person's declaration that the statement has been read, that it is complete, and that it is true. ("I have read the above ten pages which contain all the information I know regarding this matter and it is true.")
- Upload any handwritten statement into File Manager in DARES.

### **Physical and Documentary Evidence in a Facility, Program, or Agency Setting**

Review written material such as facility, agency, or program logs and medical or mental health records. The facility, agency, or program shall provide copies of pertinent information. (Do not remove originals without the facility, agency, or program's consent, a court order, or a search warrant.) The following is a list of documents you might need to review:

- The facility, agency, or program logs, including daily, incident, changeover, medication, meal, sleep, night check, control room, and restraint logs. (Not all facilities, agencies, and programs have each type of log.)
- The dependent adult's case record at the facility, agency, or program.
- The alleged perpetrator's personnel file.
- The dependent adult's placement worker file.
- The incident report developed by the facility, agency, or program.
- The facts and findings of any internal investigation conducted.
- The in-service training plans for the alleged perpetrator and for other service staff.
- The facility, agency, or program's admission criteria, policies, and procedures.
- The facility, agency, or program's licensing or registration standards and any current noncompliance issues.

Observe objects such as restraints, handcuffs, and weapons (such as a knife wielded by an out-of-control dependent adult).

You may take photographs of injuries, living arrangements, or other relevant items. Inform the facility, agency, or program before taking photographs.

### **Use of Physical Restraints in a Facility, Agency, or Program**

Each program has specific criteria regarding use of restraints. Typically, restraint is justified when a dependent adult is out of control or a danger to self or others. For specific regulations governing each specific program, contact the regulatory authorities. Ask the licensing worker or monitoring entity or other policy personnel for assistance in locating specific policy.

NOTE: Minor injuries resulting from properly administered physical restraint are not dependent adult abuse. Corporal punishment is not permitted in facilities, agencies, or programs. The questions below will help determine if physical restraint was properly administered.

Suggested questions to be considered to determine if restraints were improperly used include, but are not limited to, the following:

- Was the behavior displayed by the dependent adult before the restraint likely to result in injury to the dependent adult, other persons, or to property?

Describe the incident and the dependent adult's behavior during the restraint. Restraint may not be used as corporal punishment. Examples of behavior which justify restraints include:

- Inciting others to insurrection.
- Displaying uncontrolled physical behavior which may result in injury to self, others, or property.
- Behavior which in itself prevents the normal operation of the facility, agency, or program, such as if the safety of other persons is endangered.

Simple refusal to follow directions which does not involve injury to self, others, or property; failure to follow programming; or failure to follow facility, agency, or program rules would not be considered to be examples of disruptive behavior.

- Were other less restrictive methods used to calm the dependent adult before restraint was used?

Facilities, agencies, and programs are generally required to use a variety of methods to attempt to de-escalate the situation. Possible methods may include:

- Gestural redirecting
- Physical restraint
- Mechanical restraint
- Verbal command
- Blocking
- Physical redirection

Determine whether or not the least restrictive measures (as appropriate) were used to de-escalate the dependent adult's behavior, and that those measures failed to adequately control the behavior.

- Was the restraint justified and applied appropriately by staff?

Determine if the restraint was justified by the dependent adult's behavior and within policy limits. Determine if the restraint was abusive in intent or application.

- Was the restraint method used appropriate to the type of facility, agency, or program in which the dependent adult was placed?

Secure facilities may use physical restraints, control rooms, locked cottages, mechanical restraints, or chemical restraints. Non-secure facilities may use control rooms or physical restraints. The designation of "secure" vs. "non-secure" facilities is established by the facility's license or accreditation.

- Were the reported injuries suffered by the dependent adult consistent with the application of reasonable and properly applied physical restraint?  
Restraint injuries are generally not serious and involve minor scrapes and scratches. They may involve bruises if the resident displayed very resistant behavior or was self-abusive before or during the restraint episode.
- Does the dependent adult's account of the incident correspond with appropriately applied physical restraint?  
You may obtain this information through the reporter's statement or independent assessment by the placing caseworker.
- What does the dependent adult's individual program plan state in regards to restraints prescribed by the dependent adult's physician?  
If the facility, agency, or program states that restraints were prescribed by the client's physician, the client case file should have a detailed individual program plan intended to lead to less restrictive means of managing and eliminating the behavior for which the restraint is prescribed.
- Were drugs used as restraints with the attending physician's written prescription?  
Using drugs to control inappropriate behavior will have the approval of the attending physician and will be supported with records in the facility, agency, or program client case file.  
Using drugs to control inappropriate behavior will only be used as an integral part of the client's individual program plan that is directed specifically toward the reduction and eventual elimination of the behaviors for which the drugs were employed.  
Drugs used for control of inappropriate behavior may not be used unless it can be justified that the harmful effects of the behavior clearly outweigh the potentially harmful effects of the drugs.

### **Facility, Agency, or Program Policies**

In the course of conducting an evaluation of alleged abuse in a facility, agency, or program, it is necessary to determine if the following are contributing factors to the abuse of dependent adults:

- Policy and programming
- Staffing practices
- Training

### **Policy and Programming**

Evaluate the policies and programming of the facility, agency, or program to determine if policies or lack of policies contributed to or caused the alleged abuse. Determine if the policies appropriately address the following:

- Programming that is needed for the population served.
- Up-to-date care plans and direction to staff on how to provide care for patients or clients.
- Procedures for managing problems, physical restraints, or physically abusive patients or clients.
- Grievance and complaint policies for patients, clients, or relatives of patients or clients.
- Emergency policies.
- Policies for reporting abuse.
- Policies for reporting, and maintenance system, for hazardous conditions on grounds, building, and equipment, including vehicles.
- Policies on safekeeping, transporting, and dispensing of medications.
- Policies on written communications.

### **Staffing Practices**

Consider the staffing practices when evaluating an allegation of abuse in a facility, agency, or program. Determine if the staffing practices appropriately address the following:

- Adequate staffing ratio and coverage requirements, including contingency plans for staff absences, emergencies, and assignment of new employees.
- Staff receive adequate training before being left alone with difficult patients or clients.
- Staff job descriptions, behavioral guidelines and expectations, evaluations, corrective or disciplinary actions, and grievance policies.
- Staff orientation and ongoing training plans.
- Supervision of all levels of staff, including chain of command for the facility, agency, or program, according to the table of organization, is clear to all staff.
- Required written communications are complete and adequate.
- Criminal and abuse background checks are conducted on staff.

### **Training**

Consider the following when evaluating an allegation of abuse in a facility, agency, or program.

- Are the training requirements adequate for:
  - Non-violent crisis intervention.
  - Directing a patient or client who requires assistance.
  - Redirecting a patient who is exhibiting behavior, which could hurt someone.
  - Handling a medical emergency.
  - Providing care without hurting patients and clients (how to lift, bathe, turn a person, etc.).
  - Reporting abuse and responsibilities and liabilities under the dependent adult abuse law.
  - Physically restraining a person without hurting the person.
- How may facility, agency, or program policy and programming, staffing practices and training have contributed to or been responsible for the abuse?

Document your findings in the report.

### **Drawing Conclusions in a Facility, Agency, or Program Setting**

There may be situations in which the actions of a staff person resulted in abuse. However, the actual cause of the abuse may be the results of the facility policy, lack of policy, or supervisory direction.

In certain situations, the perpetrator may be the direct caregiver or someone in the chain of command. In addition to direct care staff, supervisors, management staff, and administrators have caretaker responsibilities and can be named as a caretaker responsible for abuse in a dependent adult abuse report.

When conducting the evaluation, you may determine someone in a position of authority should be identified as the perpetrator (such as a supervisor, director of nursing, director or administrator) because that person:

- Was aware of the abuse and did not respond to it, or
- Implemented policies which were conducive to abuse, or
- Directed employees to commit acts that caused abuse.

Determine who was responsible for the care of the dependent adult at the time of the alleged abuse:

- Was the person responsible for the care following orders?
- Did the person take reasonable measures to protect the dependent adult?
- Was the dependent adult left in a high-risk situation without protection?
- Did the abuse happen more than once?
- Did the person have the authority or ability to intervene to protect the dependent adult?
- Did the person respond in a reasonable fashion?
- Did the person participate or implement the act that resulted in abuse of the dependent adult?
- Does the alleged abuse meet the definition of dependent adult abuse?
- Did the person know about the abuse?
- Did the person direct another employee to commit an act that caused abuse to a dependent adult?

There must be clear and specific documentation that each person you determine to be responsible for the abuse either:

- Knew about the abuse and did not intervene, or
- Caused the abuse to occur, or
- Directed another employee to commit acts that resulted in abuse of the dependent adult.

Only a person (known or unknown) may be named as a perpetrator, not a facility, agency, or program. To found within the chain of command for a facility, agency, or program, you must establish the direct supervisor, director of nursing, director, or administrator either:

- Knew about the abusive situation and failed to respond to it, even though having the authority to do so.
- Implemented policies which were conducive to abuse.
- Directed other employees to commit acts that caused abuse.

Consult your supervisor when you consider if the person or policy responsible for the abuse is other than the direct caretaker.

### **Closure Meeting**

Upon completion of your evaluation, schedule a closure meeting with the facility, agency, or program. You, your supervisor, and the administrator or director or with that person's designee must be included. You may also consider including in the meeting:

- Relevant regulatory personnel (licensing manager, certification manager, program specialists, monitoring entity etc.).
- HHS APS area administrator (if appropriate).
- HHS service worker or other case manager.

The purpose of the meeting is to exchange information regarding the findings of the dependent adult abuse evaluation. Because of confidentiality, specific information concerning the subjects of the report may not be discussed. It is also the purpose to discuss any concerns identified regarding policy and practice along with the outcomes of the facility, agency, or program's internal investigation.

It may be possible to accomplish the purpose of the closure meeting with a phone call, if there is no or few policy or procedural issues.

### **Notice of Problems with Facility, Agency, or Program 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.

Prepare a letter that includes sufficient information to identify the problem areas. Do not include any personally identifiable information about the subjects of the evaluation. Include in the letter information concerning any of the following that you discovered during your evaluation:

- An incidence in which the facility, agency, or program policy or lack of policy may have contributed to the alleged dependent adult abuse.
- An incidence in which general practice in a facility, agency, or program appears to differ from the facility, agency, or program's written policy.
- An incidence in which the facility, agency, or program policy or practice appears to be in violation of licensing, certification, or registration standards.

Both you and your supervisor will sign the notice to facility letter. Send it to all of the following:

- The governing body of the facility, agency, or program (usually a board of directors).
- The administrator of the facility, agency, or program.
- The licensing or monitoring authority for the facility, agency, or program.

To determine the licensing authority, monitoring authority, or governing body for the facility, agency, or program, contact the facility, agency, or program administrator, who will provide that information.

Address the letter to the administrator of the facility, agency, or program, with copies to the licensing authority, monitoring entity and governing body. Be sure to de-identify all information in the letter so the identities of the subjects of the report are not revealed. The purpose of the letter is to point out problems with policy and procedure that may be addressed by the administrator, licensing authority, monitoring entity and governing body.

Rather than writing only about the abuse, list the types of violation of policy or procedure, or lack of policy or procedure, that contributed to the abuse incident. Cite specific Iowa Code or Iowa Administrative Code violations that you observed.

Make recommendations for any action viewed as necessary or advisable to protect dependent adults who reside in the facility or receive services from the agency or program. Base the recommendations on information you obtain during the evaluation.

Because information in the notice to facility may affect the licensure or accreditation of the facility, agency, or program, provide sufficient information to support observations and recommendations.

## **Delivery of Protective Services**

When a safety concern has been identified during the course or at the completion of the assessment or evaluation, determine if protective services should be offered to the dependent adult. The dependent adult may voluntarily accept services of the Department or other community agencies to address the concerns 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 a dependent 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](#)
- [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 service 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.

The protection worker is 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 to have the capacity to comprehend it. If not, make a referral to the local HHS APS ongoing service unit (if available), 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 relative 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.

### **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); 21 u.s.t. 77

Supervisory approval is required in making a decision about pursuing court action.

All court action initiated on behalf of the adult subject by the department is pursuant to Iowa Code section 235B.3(10)(a), 235B.17, 235B.18 and 235B.19. If the department determines that the best interest of the dependent adult requires court action, the department shall initiate court action. The appropriate county attorney shall assist the department in the preparation of the necessary papers to initiate the action and shall appear and represent the department at all district court proceedings.

The department, with assistance and representation from the county attorney, can initiate court action under applicable procedures in Iowa Code chapter 235B, Iowa Code chapter 125, Iowa Code chapter 222, Iowa Code chapter 229, Iowa Code chapter 633, or other remedies provided by law. See [Available Legal Remedies](#).

**NOTE:** If the county attorney declines to assist and represent the department, contact the Service Help Desk for further guidance.

Determine whether the court should be involved in a particular case based on these factors:

- Does the adult have the capacity to make decisions regarding personal and financial affairs?
- If the adult appears to lack capacity, 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 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 intervention](#)
- [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.

Court intervention is not necessary to terminate an agent's authority pertaining to a financial power of attorney. See [Notice to Terminate an Agent's Authority](#).

### **Consulate Notification**

When the Department has identified a dependent adult in need of a guardian and who has citizenship in another country, the consulate of that individual may need to be notified. Notification to the consulate **must** be provided if the dependent adult is a national from a country on the Mandatory Notification list maintained by the US Department of State. See <https://travel.state.gov/content/travel/en/consularnotification.html>

State and federal confidentiality statutes apply to information provided to the consulate. You may provide the adult's name, date of birth, and the name of a spouse or adult child. A dependent adult's consulate must be notified (per the U.S. Department of State) when the dependent adult is a foreign national and has a guardian appointed.

### **Legal Counsel Appointed for Dependent Adult**

Legal reference: Iowa Code Section 235B.3(10)(c)

In every case of substantiated dependent adult abuse 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.

If necessary to protect the dependent adult's best interests, the court may also appoint a guardian ad litem. 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.

## **Available Legal Remedies**

### **Provisions or Protective Services- Caretaker Refusal**

Legal reference: Iowa Code Section 235B.17

Before you request the assistance of your county attorney, acquire the facts and provide the affidavit for the creation of a petition. A petition can be presented that requests the caretaker be prohibited from interfering with the provision of protective services to a dependent adult who has agreed to protective services. Provide an affidavit articulating 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.

The judge may issue an order enjoining the caretaker from interfering with the provision of protective services.

### **Provision of Protective Services- Dependent Adult Who Lacks Capacity to Consent**

Legal reference: Iowa Code Section 235B.18

If you determine that a dependent adult is a victim of abuse, and lacks the capacity to consent to services, the petition presented to the court by the county attorney can request the following:

- 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 affidavit. The affidavit shall state the following information as far as is known:

- Specific verified information sufficient to demonstrate that the adult subject:
  - Is a 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 the county attorney petitions 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 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 to services 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

**Before you request the assistance of your county attorney, acquire the facts and provide the affidavit for the creation of the petition.**

When the court is petitioned for an emergency order authorizing protective services, the court may order emergency services. 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 which event the order is automatically extended to 4:00 p.m. on the first succeeding business day. An order may be renewed for not more than 14 additional days.

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.

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 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.

### **Placement of Adult**

Should you receive a court order to ensure the safety of a dependent adult, which provides for the adult's placement into an appropriate care program, consider the following:

- The dependent adult should be medically evaluated to determine if there is a medical reason for admission into a hospital setting.
- Should there be no medical need for admission, the protection worker will contact an appropriate care program which meets the needs of the dependent adult based upon the medical opinion about what level of care the adult requires.

- All care programs, prior to emergency admission should they have openings, will require the following:
  - A medical history and physical for the dependent adult (which can be obtained from the medical evaluation noted above).
  - Information on the adult's current insurance coverage.
  - Mental health and intellectual disability history (which can be obtained from medical records).
  - The adult's financial, income, and asset information, including bank account information, credit card information, pension, and social security income.
  - Medication history and possible medication orders.
  - The identity of any individuals who should not have contact with the dependent adult following placement.

NOTE: Care programs might have questions pertaining to the federally required Pre-Admission Screen Resident Review (PASRR). The PASRR has to be completed for everyone admitted and many programs will not accept a resident without having completed the Level 1 PASRR first due to federal regulations. While the adult is being medically evaluated, inquire as to if there is a social worker or other medical staff who can provide some assistance with completing a Level 1 PASRR to aid in the adult's placement.

### **Emergency Services Petition Served on Dependent Adult**

Legal reference: Iowa Code Section 235B.19

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.

Document all orders served under summary of contacts in DARES. Upload a copy of all orders into File Manager in DARES.

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.

The county attorney has discretion regarding which code section is most appropriate to file under. 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.

If APS, with assistance from the county attorney, is filing for a guardian or conservator under Iowa Code 633, the APW will be responsible to conduct a background check through the Single Contact Repository (SING) on the individual identified as the proposed guardian/conservator. See [SING Checks](#) for more information.

### **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 633.552-565; 441 IAC 176.6(8), 176.6(10)

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

When someone is seeking court intervention for guardianship, always advocate for the most least restrictive means of court appointed authority necessary to ensure the dependent adults basic essential human needs are met. If a guardianship is necessary, consider filing for a "limited guardianship." The need for a substitute decision maker is not an all or nothing concept. Always advocate for the greatest level of self-determination as possible.

**Reminder:** HHS should not request to be the guardian. If a guardian cannot be located, the department can request specific authorities to assist in fulfilling the identified protective services needed for the dependent adult.

### **Examples could include:**

- Authority to sign a release of information
- Authority to obtaining financial statements
- Authority to consent to services
- Authority to exchange information with all healthcare providers

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 under Iowa Code 633. A petition filed pursuant to Iowa Code 633 shall state the following information as far as is known to the petitioner:

- A concise statement of the factual basis for the petition.
- A concise statement of why there is no less restrictive alternative to the appointment of a guardian or a conservator.
- List the name and address of the petitioner and the petitioner's relationship to the respondent.
- List the name and address, to the extent known, of the following:
  - Names and address of the proposed guardian and the reason the proposed guardian should be selected.
  - Any spouse of the respondent.
  - Any adult children of the respondent.
  - Any parents of the respondent.
  - Any adult, who has had the primary care of the respondent or with whom the respondent has lived for at least six months before the filing of the petition, or any institution or facility where the respondent has resided for at least six months before the filing of the petition.
  - Any legal representative or representative payee of the respondent.
  - Any person designated as an attorney in fact in a durable power of attorney for health care which is valid under Chapter 144B, or any person designated as an agent in a durable power of attorney which is valid under Chapter 633B.
- Any additional persons who may have an interest in the proceeding may be listed in an affidavit attached to the petition.
- If the petition requests the appointment of a conservator, the petition shall state the:
  - Estimated present value of the real estate owned or to be owned by the respondent.
  - Estimated value of the personal property owned or to be owned by the respondent.
  - Estimated gross annual income of the respondent.

- The petition shall provide a brief description of the respondent's alleged functional limitation that makes the respondent unable to communicate or carry out important decisions concerning the respondent's financial affairs.
- Any additional information relevant to the proceeding may be included in an affidavit attached to the petition.

### **SING Checks**

If APS, with the assistance from the county attorney, is filing for a guardian or conservator, the APW will be responsible for conducting a background check through the Single Contact Repository (SING) on the individual identified as the proposed guardian/conservator. The result of the SING check should be provided with the petition (if possible) or with ample time for the court's consideration. Further, a request should be made to the court asking they waive the requirement that court administration conducts a SING check subject to a SING check being provided by APS.

To conduct a SING check, APS will obtain the purposed guardian or conservator's signature on form [470-3301, Authorization for Release of Child and Dependent Adult Abuse Information](#), and [DCI-77, State of Iowa Criminal History Record Check Request Form](#).

The court may appoint a guardian if the allegations of the petition as to the status of the dependent adult and the necessity for the appointment of the guardian is approved.

Try to locate a member of the family, a friend, or 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 the adult's person
- A qualified professional has written a document clearly stating that the dependent adult is incompetent to make decisions regarding the person and the reason for this.
- That a qualified person has agreed to act as the guardian if appointed.

### **Office of the Public Guardian**

Established in Iowa Code (Chapter 231E), the Office of Public Guardian may act as an individual's guardian, conservator, or representative payee. The mission of the Office of Public Guardian is to preserve individual independence through a person-centered process by:

- Providing information about guardianship, conservatorship, and less restrictive alternatives for supporting older adults and adults with disabilities;

- Providing education and resources for guardians and conservators; and
- Providing guardianship and conservatorship services in the least restrictive manner.

The Office of Public Guardian will only be appointed by the court as the guardian or conservator of last resort if there is no one else who could serve as a guardian or conservator and the person's needs cannot be met with less restrictive alternatives than guardianship or conservatorship.

If a thorough search for a guardian for the dependent adult is unsuccessful, you may apply for a guardian through the Office of the Public Guardian. Currently, Decisions for Life and Guardians of Northeast Iowa serve as the local office for the Office of the Public Guardian and serves the entire state of Iowa.

The State Office of the Public Guardian determines eligibility to the program; and services are provided by Decisions for Life and Guardians of Northeast Iowa as the Local Office. The final decision on whether or not a guardian or conservator shall be appointed, and who it will be, is made by a judge.

Clients who are able to pay for services will not be excluded from the program, however, they may be asked to use their own funds to pay the fees. For indigent clients, the program pays or seeks a court order to waive all legal fees, court costs, and ongoing guardianship fees. For referrals, call 515-681-8622, email [opg@hhs.iowa.gov](mailto:opg@hhs.iowa.gov) or apply electronically at [https://appengine.egov.com/apps/ia/ida\\_opg](https://appengine.egov.com/apps/ia/ida_opg)

### **Guardianship/ Conservatorship Consults with the Office of Public Guardian**

Guardianship/ Conservatorship consults with the Office of Public Guardian can be completed in an effort to identify the most appropriate services and types of decision-making supports for individuals. To request a guardianship/ conservatorship consultation email the following information to the designated program manager in charge of scheduling:

- A copy of the Dependent Adult Abuse Intake without reporter information included.
- Any medical or non-medical documentation APS feels is pertinent in addressing the Dependent Adult's decision-making capacity that supports they are in need of a guardian/conservator. For example, any psychiatric, psychological, IQ testing documentation, OT/ PT, Speech Therapy documentation, care plans, or any other notes indicating a lack of the Dependent Adult's decision-making abilities, impairments, etc. (Please note: complete medical records are not necessary)

**For this the OPG is looking for a description rather than just their diagnoses, since the same diagnosis can look very different in different people or for the same person at different points in time.**

- Answer the following questions in the body of the email:
  - Does the person understand the choices which are being presented, along with the potential risks and benefits of each choice? Does the person comprehend he or she is being told, and can the person repeat it back in his or her own words? If he or she is not able to repeat the choices, can he or she recognize them when restated by someone else?
  - Does the person appreciate his or her present condition? In other words, does the person have any *insight* into his or her difficulties?
  - Is the person able to communicate his or her reason(s) for the choice made? In other words, can the person explain why he or she has chosen the particular option(s) offered? Of course, this is not a matter of whether or not others agree with the choice made, but whether or not there are rational *explanations* given for the choice, whatever it may be.
  - Is the person able to clearly and consistently express his or her choice for care from among the options which have been presented? Frequent or inconsistent changes in the choice made, may indicate a concern.

### **Involuntary Conservatorship**

Legal reference: Iowa Code Sections 633.566 to 633.667

When the concern is for the dependent adult's resources or property, someone outside the Department may seek conservatorship appointment to provide for the legal authority of protecting the adult's assets.

When someone is seeking court intervention for conservatorship, always advocate for the most least restrictive means of court appointed authority necessary to ensure the dependent adults basic essential human needs are met. The need for a substitute decision maker is not an all or nothing concept. Always advocate for the greatest level of self-determination as possible.

Any person may file with the clerk a verified petition for the appointment of a conservator under Iowa Code 633. The petition shall state the following information, so far as is known to the petitioner:

- A concise statement of the factual basis for the petition.
- A concise statement of why there is no less restrictive alternative to the appointment of a guardian or a conservator.

- List the name and address of the petitioner and the petitioner's relationship to the respondent.
- List the name and address, to the extent known, of the following:
  - Names and address of the proposed guardian and the reason the proposed guardian should be selected.
  - Any spouse of the respondent.
  - Any adult children of the respondent.
  - Any parents of the respondent.
  - Any adult, who has had the primary care of the respondent or with whom the respondent has lived for at least six months before the filing of the petition, or any institution or facility where the respondent has resided for at least six months before the filing of the petition.
  - Any legal representative or representative payee of the respondent.
  - Any person designated as an attorney in fact in a durable power of attorney for health care, which is valid under Chapter 144B, or any person designated as an agent in a durable power of attorney which is valid under Chapter 633B.
- Any additional persons who may have an interest in the proceeding may be listed in an affidavit attached to the petition.
- If the petition requests the appointment of a conservator, the petition shall state the:
  - Estimated present value of the real estate owned or to be owned by the respondent.
  - Estimated value of the personal property owned or to be owned by the respondent.
  - Estimated gross annual income of the respondent.
- The petition shall provide a brief description of the respondent's alleged functional limitation that makes the respondent unable to communicate or carry out important decisions concerning the respondent's financial affairs.
- Any additional information relevant to the proceeding may be included in an affidavit attached to the petition.

If the allegations of the petition as to the status of the protected person or dependent adult 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, the department **IF** represented 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 APS Director, or the APS Director'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 APS Director, or the APS Director'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 or 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 Chapter 229

Proceedings for the involuntary hospitalization of a person may be commenced by the department if represented by the county attorney or any other 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 APS Director or the APS Director'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 APS Director, or the APS Director'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.

### **Service Narrative**

When department services for a dependent adult continue after an assessment/evaluation has closed pursuant to 235B.3(10)(b), utilize the "Service Narrative" section in DARES to document all relevant case information.

Possible reasons to use this section include, but are not limited to:

- Ongoing court involvement
- Ongoing placement concerns
- Placement updates
- Acquired service provisions
  - What needs of the dependent adult will the service provisions satisfy?
- Dependent adult status at the time of ongoing case closure
  - Are there any unmet needs. If so, is the dependent adult refusing specific voluntary services?
  - Service provision barriers necessary for future reference

### **Periodic Visits**

Legal reference: Iowa Code Section 235B.16A(2)(d)

After completing the evaluation or assessment on an adult subject who is at moderate to high risk, you will need to determine if the adult requires periodic visits. During the assessment, you:

- Tried to ensure the adult subject was safe,
- Determined if the adult subject has the capacity to make decisions,
- Determined if the adult subject is physically functional,
- Determined if the adult subject was dependent, and
- Completed or attempted a safety plan if you determined the adult subject'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 adult subject is a dependent adult and found that no abuse has occurred, the dependent adult could still be at-risk if interventions to remove the circumstances that have caused the risk continue to exist.

An adult subject who lacks the capacity to consent is dependent and is at far greater risk than an adult subject 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 adult subject or assist with securing other local resources.

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

- Arrange for protective services through a court order,
- Arrange for a legal guardian, conservator, or payee,
- Persuade the adult subject and caretaker to accept services,
- Engage the adult subject and caretaker to agree to a safety plan to be monitored by another credible support, or
- Identify sufficient services or supports are already in place to meet the adult subject's need.

Periodic visits are only provided after the completion of a dependent adult abuse assessment or evaluation. Periodic visits are not intended to be used as an “extension” of the assessment or to document further action by way of services or court assistance.

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

If you determine the adult subject 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.

To satisfy statutory requirements, a visit requires face-to-face contact with the at-risk adult every 30 **calendar** days.

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

### **Conducting Periodic Visits**

Legal reference: 235B.16A(2)(d) and 441 IAC 176.6(10)

The purpose of periodic visits is to determine if the at-risk adult'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

NOTE: You are only authorized to contact the at-risk adult during the course of periodic visits. Authority to obtain information without a release of information does not extend to periodic visit. Periodic visits should not be used as a means to continue gathering assessment or evaluation information.

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](#). Offer services and support to maintain or sustain independence. Attempt to write a safety plan with the individual.

Document your visit contact in DARES under the Periodic Visits tab.

Continue monthly 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 adult continues to refuse services or your continued attempt to develop a safety plan, schedule a follow-up visit. If after six months, the adult's situation has remained the same and the adult continues to refuse services or attempts to develop a safety plan, review and discuss the case with your supervisor about terminating periodic 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 adult will in time agree to services and a safety plan, consider scheduling a future visit.

### **Criteria to Terminate Periodic Visits**

Legal reference: 441 IAC 176.6(10)(d)

Terminate periodic visits if the following exists:

- The at-risk adult agrees to services and services are arranged.
- The at-risk adult's health or safety has deteriorated and court action is requested.
- There has been no change to the at-risk adult's health or safety for six months after the initial intake report of abuse and it appears the adult will never agree to services and the adult has decision making capacity.
- The case is closed due to the death of the at-risk adult.

A new allegation of abuse is accepted.

- 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.

In every case, document the criteria to end periodic visits in DARES under the Periodic Visits tab by selecting a closure reason. Your supervisor must approve the closure of period visits in the Period Visits tab.

## **Case Records**

This section includes policies on:

- [Evaluation and assessment case records](#)
- [Linked Intakes Urgent Reject Intakes](#)
- [Sealing and expungement of reports](#)

### **Evaluation and Assessment of Case Records**

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

Evaluation and assessment case records and intakes are stored electronically in DARES, while additional documents and information is uploaded to File Manager in DARES. The following information is maintained in the case record:

- [Suspected Dependent Adult Abuse Report, 470-2441](#), or other written report from a mandatory reporter.
- [Dependent Adult Protective Services Intake, 470-0657](#).
- [Dependent Adult Protective Services Evaluation or Assessment Summary, 470-0688](#).
- [Adult Protective Notification, 470-2444](#).
- [Request for Child and Dependent Adult Abuse Information, 470-0643](#), if applicable.
- Any other correspondence and other materials relating to the evaluation or assessment.

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.

### **Linked Intakes on a Current Open Assessment/Evaluation**

When a new abuse referral is received by intake that meets criteria for assessment/evaluation, and identifies the **same** alleged dependent adult and the **same** person responsible for abuse, the additional allegations may be linked to the current assessment (Example: Denial of critical care is the initial allegation and exploitation is added as an additional allegation during the assessment).

Rather than linking, the additional allegations may be opened as a new assessment if there is not enough time to evaluate the additional allegations before completing the current assessment.

An alert will be sent to the Adult Protective Worker (APW) and Supervisor assigned in DARES to the current report. The alert will indicate an additional intake was received pertaining to their current open assessment.

### **Responsibilities Upon Receipt of Linked Intake Alert**

Review the linked intake in its entirety to identify if there is any additional information about the circumstances, adult subject's condition, or collateral contacts.

If there is a new timeframe established to observe the adult subject based on the linked intake, make reasonable efforts to observe the adult subject within the timeframe.

Contact the reporter of the linked intake as a collateral contact on the current open assessment/evaluation.

### **Rejected Intakes on a Current Open Assessment/Evaluation**

Should centralized intake receive additional allegations which do not meet criteria for assessment or evaluation, a rejected intake will be completed and sent to the adult protection worker and supervisor of the open assessment.

### **Responsibilities Upon the Receipt of Rejected Intake Alert**

Review all information contained in the rejected intake to identify if there is any additional information about the circumstances, adult subject's condition or collateral contact.

Contact the reporter of the rejected intake as a collateral contact in the current open assessment.

### **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. All relevant case documents should be retained in File Manager. 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 Protective Services Evaluation or Assessment Summary\*](#). When you receive the notice of expungement, take action to destroy local office copies of the record as directed.

- **Founded assessment reports**, which include denial of critical care due to the adult's own actions and confirmed, not registered reports of physical abuse or denial of critical care by a caretaker:
  - The local office destroys **denial of critical care due to the adult's own action** reports five years from the date the abuse was founded or the case is closed, according to state retention policies.
  - 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 Dependent Adult Reporting and Evaluation System (DARES) 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 rejected for evaluation or assessment for failing to meet the definition of dependent adult abuse shall be kept in the Dependent Adult Reporting and Evaluation System (DARES) 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 completed before July 1, 2009, to persons who have legal access to that information.

DARES (Dependent Adult Report and Evaluation System) stores dependent adult abuse reports and other information related to the report. The Central Abuse Registry has access to DARES and can retrieve information stored there.

## **Reviews and Administrative Appeals**

Legal reference: Iowa Code Section 235B.10

Any subject of a dependent adult abuse report that is founded, unfounded, or confirmed, not registered may request a correction or expungement of that report.

The review process consists of:

- Local service area review of request for correction (if applicable)
- Administrative appeal
- Director's review
- Appeal through the district or higher court system

## **Reviews**

If a subject disagrees with the information contained within [470-0688, Dependent Adult Protective Services Evaluation or Assessment Summary](#) regardless of the finding, the adult protective worker or supervisor may meet with the subject to discuss the summary and any changes or corrections the subject wishes to submit. If the adult protective worker and supervisor agree with making the requested corrections, the corrections will be executed in an addendum.

If the adult protective worker and supervisor do not feel a meeting is appropriate, or after such a meeting, decide the report should not be changed, they will advise the subject as follows:

If you are the subject of a dependent adult abuse report that is founded, unfounded, or confirmed, not registered and you believe that the conclusion or any part of the report is in error, you may request correction or expungement of that report.

To make such a request, you must send a written and signed statement that tells why you disagree with the reporter to the Department of Health and Human Services, Appeals Section, 5th Floor, 1305 E Walnut, Des Moines, IA 50319-0114. You must send this written statement within six months of the date on Page 1 of the **Adult Protective Notification** form.

### **Administrative Appeals**

Form [470-2444, Adult Protective Notification](#) contains information that tells the subject how to file for a correction or expungement. No appeal form is necessary, although the subject may choose to complete one.

NOTE: If any local Departmental office receives a written request for correction and the adult protection worker and supervisor do not make the changes as requested, the request must be referred to the HHS Appeals Section within 24 hours.

Subjects are not required to request a local or service area review before requesting an appeal hearing. The subject has six months from the date of the **Adult Protective Notification** to request an appeal.

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

Upon receipt of an appeal request, Appeals staff will issue a written acknowledgement to the requestor.

When the Appeals Section requests additional information, provide this information within ten business days.

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.

The Department of Inspections and Appeals will send you and your supervisor a copy of:

- The notice of hearing. (There is no telephone prehearing in dependent adult appeals.)
- The proposed decision.

An assistant attorney general represents the Department during the appeal process. The assistant attorney general will contact the adult protection worker or the supervisor directly with questions about the assessment or evaluation.

Provide all requested information within the time limit specified by the attorney.

NOTE: Upon request of any party to the appeal proceeding, the administrative law judge may stay the hearing until the conclusion of a district court case relating to the data or findings. A criminal conviction in a district court case relating to the dependent adult abuse data or findings may be determinative in the appeal proceeding.

At the administrative hearing:

- The adult protection worker and supervisor may be asked to provide testimony. The hearing may be held by telephone, or in rare circumstances, in person.
- The assistant attorney general may also ask you and your supervisor to assist in locating and issuing subpoenas to other witnesses who are asked to provide testimony.

NOTE: Payment for expenses of witnesses subpoenaed for appeals is provided through service area administrative funds, if available. Obtain prior approval from the APS Director before authorizing the Attorney General's office to issue a subpoena.

The appeal may be settled without needing to go to hearing if the assistant attorney general and the appellant or the appellant's attorney is able to reach a mutually acceptable compromise. Generally, the assistant attorney general consults with the adult protective worker and supervisor before such a compromise is agreed upon.

NOTE: if an appeal is dismissed due to a settlement agreement, the administrative law judge issues an "Order Implementing Settlement Agreement and Dismissing Appeal." This is the final decision. Take immediate action to ensure the decision is implemented within seven (7) business days. The supervisor shall track that the addendum is completed, approved, and on the system within seven business days of the date of the decision.

After the appeal hearing, the administrative law judge issues a proposed decision. The adult protection worker and supervisor will receive a copy of the proposed decision. Make sure you carefully review the decision.

NOTE: This decision becomes final within ten (10) business days, unless within that 10-day period, a party to the appeal proceeding requests the director of the Department of Health and Human Services review the decision. The director has 45 days from the date of the proposed decision to issue a ruling. If the director does not rule within the 45-day period, the proposed decision becomes the final decision.

If the adult protection worker or supervisor disagrees with the proposed decision, contact the assistant attorney general representing the Department as soon as possible to discuss the decision. The attorney representing the Department will make the final decision on submitting a request for director's review of a proposed decision.

If the final appeal decision changes the content of the [Dependent Adult Protective Services Evaluation or Assessment Summary, form 470-0688](#), or removed a report from the registry, take the following steps within seven business days of the date on the decision:

- Provide corrected information to the original [Dependent Adult Protective Services Evaluation or Assessment Summary, form 470-0688](#) by issuing an addendum as directed by the appeal decision. Reference the appeal decision in the addendum.
- Send the addendum to the subjects of the report and other persons who received a copy of the original [Dependent Adult Protective Services Evaluation or Assessment Summary, form 470-0688](#).
- Send the [Adult Protective Notification, form 470-2444](#) to the subjects and other persons notified of the outcome of the original report.
- Make the necessary changes in the DARES system and send the addendum to the supervisor for approval.
- If there is an open service case, notify the assigned caseworker of the changes to the original [Dependent Adult Protective Services Evaluation or Assessment Summary, form 470-0688](#).

### **District and Higher Courts**

Legal reference: Iowa Code Section 17A.19

If a person alleged responsible for the abuse is still dissatisfied with the summary after the administrative appeal process, that person named responsible for the abuse has the option of taking the appeal to the district court and pursuing the case through the court system.

The Attorney General's office represents the Department in court. The adult protection worker and supervisor are usually 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 [Dependent Adult Protective Services Evaluation or Assessment Summary, form 470-0688](#), the adult protection worker and supervisor will be notified. Take the steps previously outlined for modification following an appeal decision within seven (7) business days of the date 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, denial of critical care, or personal degradation 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: P.L. 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. While DARES does not record social security numbers on the *Dependent Adult Abuse Assessment Report*, you are responsible for assuring any social security number is redacted from your narrative.

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 Protective Services Intake](#). Generally, the **Dependent Adult Protective Services Intake** is not released due to the necessity of protecting the name of the reporter.

Subjects, attorneys for subjects, law enforcement during a joint investigation, and others under a subpoena, court order, or a **Request for Confidential Information** signed by the Director may be entitled to receive a copy of a dependent adult intake. Consult with the Service Help Desk for assistance on when to release the intake and how to redact the social security numbers.

### **Withholding the Name of the Informant/Reporter**

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 235B.6, you shall 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.

DARES will suppress the reporter's name, address, telephone number, and information gathered from other Department sources if you click on the "suppress" button. You will need to manually redact social security numbers and any information in the Additional Information that reveals the identity of the reporter.

### **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 in any court proceeding or deposition, first contact the attorneys involved in the case, unless the subpoena is from a county attorney.

NOTE: if there is a subpoena that is unspecific to a person's testimony or requests records, those requests need to be sent to the HHS Director's Office.

Inform the attorneys of the provisions of the Iowa Code regarding confidentiality for dependent adult abuse information on people they don't represent. If the attorney who desires the testimony persists with the subpoena, you may contact the Service Help Desk for assistance. 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.

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 and Legislative 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 are mandatory reporters.
- How people can contact the Department.
- How an evaluation or assessment is conducted.
- What happens to the information gathered during an evaluation or assessment.

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 APS Administrator
- The Preventative and Protective Services Bureau Director

- The Aging and Disability Service Division Administrator
- The HHS Communication 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 HHS Communications Director (800-972-2017) to locate the person most appropriate to answer the questions.

The communications director 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 [470-0643, Request for Child and Dependent Adult Abuse Information](#). Furnish a copy of form 470-0643 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 470-0643 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 at 1-800-362-2178 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 470-0643.

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 470-0643 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 235B.6, you shall 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)

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 [470-0643, Request for Child and Dependent Adult Abuse Information](#).

File the completed form 470-0643 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 office of the attorney general.

In these cases, the APS Director or designee has authority to determine access. Complete form **470-0643, Request for Child and Dependent Adult Abuse Information** and upload into DARES File Manager under each assessment number released.

### **Requests for Information to Local Office**

The APS Director 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,
  - HHS or DIAL 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.
  - Tribal court, tribal prosecutor, or tribal services provided that the dependent adult is an Indian.
- Providers of care, including:
  - Persons or agencies responsible for care or supervision (including POA agents),
  - HHS employees who need the information to carry out their duties, and
  - Health care facility administrators or designees.

Dependent adult abuse information released by APS Director 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 shall 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 [470-0643, Request for Child and Dependent Adult Abuse Information](#) 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 470-0643 to receive dependent adult abuse information.

If authorized access is demonstrated, the APS Director 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 arranges to provide the specified information to the requester and uploads the request form into the case's File Manager in DARES.

NOTE: Please reference [RC-0135, Dissemination Desk Aid](#) for additional guidance.

### **Assessment Reports**

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

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](#).

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](#). Form [470-3301, Authorization for Release of Child and Dependent Adult Abuse Information](#) is required and only disposition data can be provided.

### **Authorized Access**

Legal reference: Iowa Code Section 235B.6(2)(a)

The local office shall approve release of dependent adult abuse information from reports to the following people utilizing appropriate form 470-2444 or 470-0643:

	Founded or Confirmed	Unfounded
▪ <b>Subjects of a report</b>		
Dependent adult	Yes	Yes
Attorney for dependent adult	Yes	Yes
Legal guardian	Yes	Yes
Guardian's attorney	Yes	Yes
Person responsible for abuse	Yes	Yes
Person responsible for abuse's attorney	Yes	Yes

	Founded or Confirmed	Unfounded
<b>Persons involved in an evaluation or assessment</b> Health practitioner	Yes	No
Mental health professional	Yes	No
HHS or DIA abuse evaluator	Yes	Yes
HHS staff involved in certification or accreditation of agency or program providing services	Yes	No
Law enforcement assisting evaluation	Yes	No
Multidisciplinary team	Yes	Yes
Mandatory reporter in specific case	Yes	Yes
Boards that license, certify, and discipline health care professionals	Yes	No
<b>Judicial and administrative proceedings</b> County attorney	Yes	Yes
District court (with finding that information is necessary)	Yes	No
Court or administrative hearing for an appeal to correct or expunge information	Yes	No
Court or administrative agency making an unemployment compensation determination	Yes	No
Expert witness or a witness who testifies in a trial	Yes	No
Tribal court, tribal prosecutor, or tribal services provided that the dependent adult is an Indian.	Yes	Yes

	Founded or Confirmed	Unfounded
<ul style="list-style-type: none"> <li><b>Providers of care</b>  Person or agency responsible for care, treatment, or supervision of adult (including POA agents)</li> </ul>	Necessary information	No
<ul style="list-style-type: none"> <li>Person or agency responsible for care, treatment, or supervision of perpetrator</li> </ul>	Necessary information	No
<ul style="list-style-type: none"> <li>HHS registration or licensing employee when necessary in duty</li> </ul>	Yes	No
<ul style="list-style-type: none"> <li>Licensing authority for facility providing care to dependent adult</li> </ul>	Yes	No
<ul style="list-style-type: none"> <li>Iowa Protection and Advocacy Agency (<a href="#">DRI</a>) if victim has a developmental disability or mental illness</li> </ul>	Yes	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 235B.6, you shall 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:

**NOTE:** “Assessments” refer to Founded Denial of Self-Care and Confirmed Not Registered cases.

	Founded	Assessments	Unfounded
<ul style="list-style-type: none"> <li><b>Others</b>  Researcher</li> </ul>	Yes	No	No
<ul style="list-style-type: none"> <li>Registry and Department personnel when necessary to the performance of their official duties, or a person, an instrumentality of the state, or an agency under contract with the department to carry out official duties and functions.</li> </ul>	Yes	Yes	Yes

	<b>Founded</b>	<b>Assessments</b>	<b>Unfounded</b>
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, Appeals, and Licensing	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)

The local office approves release of dependent adult abuse reports 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 shall 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 Dependent Adult Reports**

Legal reference: Iowa Code Section 235B.6(2)(b)

The local office approves release of founded and confirmed dependent adult abuse report 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 APS Director or designee to review these concerns.

Persons involved in a report 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 [470-5737, Multidisciplinary Team Agreement](#)).
- 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)

The local office approves release of **founded** and confirmed dependent adult abuse reports to:

- The county attorney. (Form [470-0643, Request for Child and Dependent Adult Abuse 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 470-0643, *Request for Child and Dependent Adult Abuse 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.

- To a tribal court, tribal prosecutor, or tribal services provided that the dependent adult is an Indian.

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.

Tribal courts, tribal prosecutors, and tribal services also have access to **unfounded** dependent adult abuse information.

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)

The local office approves the release of **founded** and confirmed dependent adult abuse reports 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. This can include an agent under a Power of Attorney.
- 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 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 shall 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)

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

- A person conducting bona fide research on dependent adult abuse.
- Registry or Department personnel when necessary to the performance of their official duties, or a person, an instrumentality of the state, or an agency under contract with the Department to carry out official duties and functions.
- 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 Public Guardian 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 235B.6, you shall 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 [470-0643, Request for Child and Dependent Adult Abuse 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 **470-0643, Request for Child and Dependent Adult Abuse Information**. 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 470-0643, *Request for Child and Dependent Adult Abuse Information* 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 shall 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 [470-3301, Authorization for Release of Child and 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 IAC 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.