

# **Dependent Adult Abuse**

## **A Guide for Mandatory Reporters**

To make a report of suspected dependent adult abuse:

In the community, contact the Department of Health and Human Services at 1-800-362-2178

In a health-related facility, contact the Department of Inspections, Appeals, and Licensing at 1-877-686-0027

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## **Dependent Adult Abuse Overview**

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

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

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

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

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

### **National Data**

All 50 states, the District of Columbia, and the U.S. Territories have adult abuse and neglect reporting laws that mandate certain professionals and institutions refer suspected maltreatment to a protection agency.

The National Adult Maltreatment Reporting System (NAMRS) collects state Adult Protective Services (APS) data to provide consistent, accurate national data on the maltreatment of older adults and adults with disabilities. The information and data is divided into Agency Component, Key Indicators, and Case Component. States voluntarily submit information and data based on the federal fiscal year (FFY). The first year of submission was FFY2016.

National Adult Maltreatment reports are available at:

<https://acl.gov/programs/elder-justice/national-adult-maltreatment-reporting-system-namrs>

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## **Iowa Response**

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

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

- The victim meets the definition of being a dependent adult, and
- The victim suffers from a statutorily defined category of abuse or neglect, and
- The abuse or neglect occurred as a result of the acts or omissions of a responsible caretaker or of the dependent adult.

Each year, the number of evaluations and assessments of dependent adult abuse that HHS conducts has grown. Dependent Adult Abuse Statistics regarding the reports of suspected dependent adult abuse and neglect received by the HHS are available on the HHS website at: <https://hhs.iowa.gov/programs/programs-and-services/adult-protective-services/daa-reports>

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

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

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

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

Services can be provided for dependent adults. However, all adults have a right to self-determination. This means the dependent adult can refuse services unless a court determines the person lacks capacity to make decisions or is threatening his or her own life or that of others.

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

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

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

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

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

- A member of the staff of a community mental health center
- A peace officer
- An in-home homemaker-home health aide
- A person employed as an outreach person
- A health practitioner, as defined in Iowa Code section 232.68
- A member of the staff or an employee of a community supervised apartment living arrangement, sheltered workshop, or work activity center
- A social worker
- A certified psychologist
- A licensed massage therapist

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

- A staff member or employee of a health care facility defined in Iowa Code 135C.1; hospital as defined in Iowa Code 135B, elder group home as defined in Iowa Code 231B.1; assisted living program certified under Iowa Code 231C.3; or adult day services programs defined in Iowa Code 231D.1
- A care review committee member assigned to an elder group home pursuant to Iowa Code Chapter 231B

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

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

Legal reference: 441 Iowa Administrative Code 176.4(235B) and 176.5(235B)

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

HHS receives reports from any person who believes dependent adult abuse has occurred. HHS maintains a toll-free telephone line 1-800-362-2178, which is available on a 24-hour-a-day, seven-day-a-week basis. Any person may use this number to report cases of suspected dependent adult abuse. All authorized persons may also use this number for obtaining dependent adult abuse information. DIAL can be contacted at 1-877-686-0027.

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

Previously, a mandatory reporter was required to make a report in writing 48 hours after the oral report. This is no longer required and is optional. If you choose to make a follow-up written report, you can use HHS form 470-2441. See the end of this handbook for a sample of form 470-2441.

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

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

NOTE: If you are an employee of a Long-Term Care (LTC) Facility, please review your employer's internal policies and procedures for additional clarification on your federal requirements for mandatory abuse reporting.

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## **Report Requirements**

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

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

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

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

Legal reference: Iowa Code section 235B.3, states in subsections 8 through 13

If the department determines that disclosure is necessary for the protection of a dependent adult, the department may disclose to a subject of a dependent adult abuse report referred to in section 2335B.6(2)(a), that an individual is listed in the child or dependent adult abuse registry or is required to register with the sex offender registry in accordance with Iowa Code Chapter 692A.

If, during the course of an a assessment, evaluation, or investigation of a report of dependent adult abuse, the department determines that disclosure is necessary for the protection of a dependent adult's resources, the department may disclose the initiation and status of a dependent adult abuse evaluation to the dependent adult's bank, saving association, credit union, broker dealer as defined in section 502.102(4), investment advisor as defined in section 502.102(15), financial advisor, or other financial institution, or the administrator as defined in section 502.102(1).

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



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

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

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

### **Information Provided to Mandatory Reporter**

Legal reference: Iowa Code 235B.6; 441 IAC 176.4(235B) and 176.5(235B)

Mandatory reporters are entitled to notification of the outcome of the report.

Upon request, all mandatory reporters are also entitled to receive a copy of the report, regardless of whether:

- Abuse was founded or unfounded, or
- Another mandatory reporter had already made the same report.

Advise mandatory reporters to complete form 470-0643, *Request for Child and Dependent Adult Abuse Registry Information*.

When more than one reporter separately makes a report of suspected dependent adult abuse on the same incident and the first report is currently being assessed, advise the subsequent reporters that the report of dependent adult abuse they are making has already been accepted as a case and orally notify them within 24 hours of receiving the report that the report of suspected abuse will also be accepted. This mandatory reporter is also entitled to outcome notice.

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### **Penalties of Mandatory Reporters**

A mandatory reporter who does any of the following concerning a suspicion of dependent adult abuse may be committing a simple misdemeanor and may be liable for civil damages:

- Knowingly and willfully fails to report.
- Interferes with the making of a report.
- Applies a requirement that results in the failure to report.

The employer or supervisor of a person who is required to report suspected dependent adult abuse may not apply a policy, work rule, or other requirement that interferes with a person making a report, or results in the failure of another to make a report.

The mandatory reporter may use form 470-2441, *Suspected Dependent Adult Abuse Report*, which outlines the necessary information.

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

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

### **Environment**

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

### **Physical Condition**

- Lack of medical care
- Lack of personal cleanliness and grooming, body odors
- Swollen eyes or ankles, decayed teeth or no teeth
- Obesity, malnourishment or dehydration
- Tremors
- Difficulty in communication

- Bites, fleas, sores, lesions, lacerations
- Multiple or repeated or untreated injuries
- Injuries incompatible with explanation
- Bruises, broken bones or burns
- Untreated pressure sores
- Signs of confinement (tied to furniture, locked in a room, etc.)
- Broken glasses frames or lenses
- Drunk, overly medicated
- Lying in urine, feces, old food
- No use of limbs, lack of mobility
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### **Behavior**

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

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

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

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## **Definitions Used by DIAL**

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

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

- Physical abuse
- Sexual abuse
- Sexual exploitation by a caretaker
- Financial exploitation
- Neglect
- Personal degradation

### **Victim**

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

### **Person Responsible for Abuse**

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

### **Physical Abuse**

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

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

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

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## **Sexual Abuse**

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

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

## **Sexual Exploitation by a Caretaker**

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

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

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

## **Exploitation**

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

## **Neglect**

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

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

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

### **Personal Degradation**

"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.

"Personal degradation" includes the taking, transmission, or display of an electronic image of a dependent adult by a caretaker, where the caretaker's actions constitute a willful act or statement intended to shame, degrade, humiliate, or otherwise harm the personal dignity of the dependent adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person.

"Personal degradation" does not include 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 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 evaluation or investigation. "Personal degradation" also does not include the taking, transmission, or display of an electronic image by a caretaker in accordance with the facility or program's confidentiality policy and release of information or consent policies.

### **Report Conclusions**

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

- **Founded:** It is determined by a preponderance of evidence (more than 50%) that abuse has occurred. Information on founded reports is maintained on the Central Abuse Registry for ten years and then sealed.
- **Unfounded:** It is determined by a preponderance of evidence (more than 50%) that abuse has not occurred. Information on unfounded reports is destroyed five years from the date they were unfounded.

- **Confirmed, not registered:** It is determined by a preponderance of evidence abuse has occurred. When physical abuse or denial of critical care by a caretaker is determined to be minor, isolated and unlikely to reoccur, the report is maintained for five years and then destroyed, unless a subsequent report is founded.

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

### **Definitions Used by HHS**

As defined in Iowa Code section 235B.2, “dependent adult abuse” includes seven categories of abuse:

- Exploitation
- Physical abuse (including assault and unreasonable confinement or punishment)
- Sexual abuse
- Sexual exploitation by a caretaker
- Sexual exploitation by a counselor or therapist
- Denial of critical care
- Self-Denial of critical care
- Personal Degradation

### **Victim**

To be accepted for evaluation, a report must concern a dependent adult. Iowa Code section 235B.2 defines “dependent adult” as a person 18 years of age or older who is unable to protect the person’s own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition that requires assistance from another.

Dependent adult abuse does not include allegations involving:

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

### **Person Responsible for Abuse**

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



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### **Exploitation**

“Exploitation” means the act or process of:

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

### **Physical Abuse**

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

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

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

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

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

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

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

### **Sexual Abuse**

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

- First degree sexual abuse

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

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

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

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

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

### **Sexual Exploitation by a Counselor or Therapist**

“Sexual Exploitation by a Counselor or Therapist” means any of the following sexual conduct between a dependent adult (former patient within the last year or current client) and the alleged perpetrator:

- Kissing
- Touching of the clothes or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals
- A sex act:
  - 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)

“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.

### **Denial of Critical Care and Self-Denial of Critical Care**

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

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

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

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

- The dependent adult declines medical treatment because the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
- The dependent adult’s caretaker declines such treatment acting in accordance with the dependent adult’s stated or implied consent, if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
- The dependent adult or the dependent adult’s next of kin or guardian requests withholding or withdrawal of health care from a dependent adult who is terminally ill, in the opinion of a licensed physician, pursuant to the applicable procedures under Iowa Code Chapters 125, 144A, 222, 229, or 633.
- A report of domestic abuse under Iowa Code Chapter 236, Domestic Abuse, does not in and of itself constitute a report of dependent adult abuse under 441 IAC 176.3(2)(a).

- All persons legally incarcerated in a penal setting, either in a local jail or confined to the custody of the director of the department of corrections, when the allegations pertain to correctional staff as caretakers under 441 IAC 176.3(2)(e).

### **Personal Degradation**

“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.

“Personal degradation” includes the taking, transmission, or display of an electronic image of a dependent adult by a caretaker, where the caretaker’s actions constitute a willful act or statement intended to shame, degrade, humiliate, or otherwise harm the personal dignity of the dependent adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person.

“Personal degradation” does not include 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 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. “Personal degradation” also does not include the taking, transmission, or display of an electronic image by a caretaker in accordance with the facility’s or program’s confidentiality policy and release of information or consent policies.

### **How Does HHS Respond?**

Legal reference: 441 Iowa Administrative Code 176.6(235B)

Upon receipt of a report of dependent adult abuse, HHS shall:

- Notify the local county attorney of the receipt of the report.
- Commence an appropriate evaluation or assessment if dependent adult abuse criteria established in Iowa Code 235B is met.

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

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

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

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

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

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

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

### **Evaluation or Assessment**

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

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

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

HHS completes a copy of its evaluation or assessment report, including actions taken or contemplated, within 20 regular working days after it receives the adult abuse report, unless an extension of time for good cause is granted.

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

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## **Boarding Homes**

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

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

## **Report Conclusions**

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

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

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

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

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

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

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### **Law Enforcement Intervention**

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

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

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

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

### **Court Action**

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

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

Neglect or abandonment of a dependent person	Iowa Code 726.3
Wanton neglect of a dependent adult	Iowa Code 726.28
Nonsupport of a dependent adult	Iowa Code 726.28
Assault (various forms)	Iowa Code 708
Older individual assault	Iowa Code 708.2D
Sexual abuse (various forms)	Iowa Code 709
Incest	Iowa Code 726.2
Dependent adult abuse (various forms)	Iowa Code 726.26
Elder Abuse (various forms)	Iowa Code 726.24-.25
Theft against an older individual	Iowa Code 714.2A

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

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

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

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

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

- Remove the dependent adult to safer surroundings;



- Order the provision of medical services;
- Order the provision of available services, including emergency services; or
- Terminate a guardianship or conservatorship.

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

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

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

### **Substance Abuse Commitment**

Either the county attorney or an interested person may commence proceedings under Iowa Code Chapter 125 for the involuntary commitment of a substance abuser to a facility.

### **Mental Health Commitment**

Any interested person may commence proceedings under Iowa Code Chapter 229 for the involuntary hospitalization of a person. HHS may only commence proceedings if represented by the county attorney pursuant to Iowa Code 235B.3(10).

### **Conservatorship**

A "conservatorship" is a court-authorized relationship under Iowa Code sections 633 whereby one person assumes the responsibility for the custody and control of the property of another. The person to whom custody of the property is awarded is called a "conservator." The person over whose property custody is granted is called a "protected person."

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

A petition for the appointment of a conservator of the property of a dependent adult may be sought to protect the property of the dependent adult if the protective concern is based on an

imminent danger to that person's property. In the absence of legal action, no person has the right to manage the property of an adult contrary to the adult's consent. HHS may only commence proceedings if represented by the county attorney pursuant to Iowa Code 235B.3(10).

### **Guardianship**

When the concern is for the dependent adult's life, rather than the adult's property, a person may seek guardianship appointment to provide for the legal sanction of moving the adult or protecting the adult. In the absence of such legal action, no one has the right to physically relocate an adult against the adult's will. The appointment of a guardian, authorized under Iowa Code sections 633, does not constitute an adjudication that the protected person is of unsound mind. HHS may only commence proceedings if represented by the county attorney pursuant to Iowa Code 235B.3(10).

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

Iowa Code section 235B.6 provides that confidentiality of dependent adult information shall be maintained, except as specifically authorized. HHS must withhold the name of the person who made the report of suspected dependent adult abuse pursuant to Iowa Code 22.7(18). Only the court or the Central Abuse Registry may allow the release of that person's name.

### **Retention of Records**

Information on all **founded** reports (whether evaluated by HHS or by DIAL) is maintained on the Central Abuse Registry for 10 years and then sealed. EXCEPTION: When the dependent adult is responsible for self-denial of critical care, HHS retains the report in the Dependent Adult Reporting and Evaluation System (DARES), but the information is not included on the Central Registry. These are called "assessments" rather than "evaluations."

Information on HHS-evaluated reports that are **confirmed, not registered** is maintained in the Dependent Adult Reporting and Evaluation System (DARES) for 5 years and then destroyed, unless a subsequent report is founded. If there is a subsequent report committed by the same caretaker within 5 years, the original report will be kept in the Dependent Adult Reporting and Evaluation System (DARES) and sealed 10 years after the subsequent report.

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

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

### **Access to Information**

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

- "Subjects" of a report (the adult victim, the guardian or legal custodian of the adult victim, and the alleged perpetrator) or the attorney for any subject.
- An employee or agent of HHS responsible for investigating an abuse report.

- HHS personnel as necessary for the performance of their official duties.
- The mandatory reporter who reported the abuse.
- The state or local long-term care ombudsman if the victim resides in or the alleged perpetrator is an employee of a long-term care facility.
- Multidisciplinary teams.
- The office of the attorney general
- The social security administration
- To a bank, savings association, credit union, broker-dealer as defined in section 502.102, subsection 4, investment advisor or defined in section 502.102, subsection 15, financial advisor, or other financial institution as deemed necessary by the department to protect the dependent adult's resources
- To the administrator as defined in Iowa Code 502.102(1)

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

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

- A nursing student program administrator and to the Board of Education for abuse background checks.

## **To Request Dependent Adult Abuse Information**

Any entity granted access to dependent adult abuse information pursuant to Iowa Code 235B.6 as listed above, can request dependent adult abuse information, complete form [470-0643, Request for Child and Dependent Adult Abuse Information](#). A sample of this form is included at the end of this handbook. Send this form to the Central Abuse Registry. The address and fax number are at the top of the form.

A person who would not otherwise have access to dependent adult abuse information, may request this information on an individual who agrees to authorize this information for the purpose of a background check. This can be accomplished by completing form [470-3301, Authorization for Release of Child Dependent Adult Abuse Information](#). A sample of this form is included at the end of this handbook.

The form must be completed as follows:

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

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

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

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

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

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

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

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

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

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

- Obtain a statement of the abuse reporting requirements from the person's employer (or from HHS, if self-employed) within one month of initial employment or self-employment.
- Complete the core training curriculum relating to the identification and reporting of dependent adult abuse within six months of initial employment (or self-employment).
- Complete the core training curriculum to the dependent adult abuse identification and reporting training every three years.

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

### **Suspected Dependent Adult Abuse Report**

For information on the Suspected Dependent Adult Abuse Report, please see its entry in the [Iowa Health and Human Services Employees' Manual, Title 18 Appendix, Family Services Appendix](#) or view form [470-2441](#) online.

### **Authorization for Release of Child and Dependent Adult Abuse Information**

For information on the Authorization for Release of Child and Dependent Adult Abuse Information, please see its entry in the [Iowa Health and Human Services Employees' Manual, Title 18 Appendix, Family Services Appendix](#) or view form [470-3301](#) online.

### **Request for Child and Dependent Adult Abuse Information**

For information on the Request for Child and Dependent Adult Abuse Information, please see its entry in the [Iowa Health and Human Services Employees' Manual, Title 18 Appendix, Family Services Appendix](#) or view form [470-0643](#) online.

## **Dependent Adult Abuse Categories**

### **Physical abuse**

Physical abuse is defined as, “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, as a result of the willful or negligent acts or omissions of a caretaker.”

### **Sexual abuse**

Iowa Code defines sexual abuse as, “The commission of a sexual offense under Chapter 709 or section 726.2 with or against a dependent adult as a result of the willful or negligent acts or omissions of a caretaker.

Within those chapters indicated, examples of sexual abuse include:

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

### **Sexual exploitation**

Sexual exploitation by a caretaker means any consensual or non-consensual sexual conduct with a dependent adult. This includes but is not limited to kissing; touching the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined by the Iowa Code. Sexual exploitation also includes the transmission, display, or taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker, for a purpose not related to treatment or diagnosis or as part of an ongoing assessment, evaluation, or investigation. The

purpose of sexual exploitation is the arousal and satisfaction of the sexual desires of the caretaker, and is not spontaneous or accidental.

### **Exploitation**

Exploitation is the act or process of: • Taking unfair advantage of a dependent adult or the adult’s physical or financial resources without the informed consent of the dependent adult, including theft • By the use of undue influence, harassment, duress, deception, false representation, or false pretenses • As a result of the willful or negligent acts or omissions of a caretaker. Financial exploitation includes the misuse of power of attorney or conservatorship, identify theft, scams, coercion into signing or changing legal documents, or the taking or misusing of the dependent adults property, such as money, food stamps, or medication. Financial exploitation occurs when the caretaker knowingly takes unfair advantage of resources by misappropriating funds belonging to the dependent adult without the informed consent of the dependent adult

### **Denial of critical care and Self-Denial of Critical Care**

The deprivation of the minimum food, shelter, clothing, supervision, physical or mental healthcare, or other care necessary to maintain the life or health of a dependent adult, as a result of the willful or negligent acts or omissions of a caretaker or the dependent adult.

### **Personal Degradation**

Personal Degradation of a Dependent Adult was added in 2019 for HHS. This new provision states that personal degradation is a willful act or statement by a caretaker in a facility or program that is intended to shame, degrade, humiliate, or otherwise harm the dependent adult’s personal dignity. The language further provides that personal degradation is a willful act or statement by a caretaker where the caretaker reasonably should have known that the act or statement would harm the personal dignity of a reasonable person.

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## **Dependent Adult Abuse in Facilities and Program Categories**

The Department of Inspections, Appeals, and Licensing (DIAL) is responsible for reports of dependent adult abuse in facilities or programs.

### **Physical Injury**

A 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 which involves a breach of skill, care, and learning ordinarily exercised by a caretaker in similar circumstances.

“Assault of a dependent adult” means the commission of any act which is generally intended to cause pain or injury to a dependent adult, or which is generally intended to result in physical contact which would be considered by a reasonable person to be insulting or offensive or 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.

### **Sexual Offense**

Any sex act between persons is sexual abuse by either of the persons when the act is performed with the other person in any of the following circumstances: 1. The act is done by force or against the will of the other. If the consent or acquiescence of the other is procured by threats of violence toward any person or if the act is done while the other is under the influence of a drug inducing sleep or is otherwise in a state of unconsciousness, the act is done against the will of the other. 2. Such other person is suffering from a mental defect or incapacity which precludes giving consent, or lacks the mental capacity to know the right and wrong of conduct in sexual matters.

### **Neglect of a Dependent Adult**

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

### **Exploitation**

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

### **Sexual Exploitation**

The sexual exploitation of a dependent adult by a caretaker, whether within a facility, a program, or at a location outside of a facility or program is any consensual or nonconsensual sexual conduct with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed breast, groin, buttock, anus, pubes, or genitals; or a sex act.

### **Personal Degradation**

Personal Degradation of a Dependent Adult was added in 2017 for DIAL. This new provision states that personal degradation is a willful act or statement by a caretaker in a facility or program that is intended to shame, degrade, humiliate, or otherwise harm the dependent adult’s personal dignity. The language further provides that personal degradation is a willful act or statement by a caretaker where the caretaker reasonably should have known that the act or statement would harm the personal dignity of a reasonable person.

## **Indicators of Dependent Adult Abuse**

**Anyone can be a perpetrator, and anyone can be a victim!**

### **Environment**

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

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

### **Physical Condition**

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

### **Behavior**

- Intentional physical self-abuse, suicidal statements



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

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## **Additional Resources**

### **If a person is in imminent danger, call 911!**

Iowa Department of Health and Human Services

To report abuse, neglect, exploitation, or self-neglect of a dependent adult.

1-800-362-2178 (toll-free, 24/7)

[Child or Dependent Adult Abuse Reporting | Health & Human Services \(iowa.gov\)](#) Iowa Department on Aging

The Department strives to improve the quality of life and care of older Iowans through advocacy, planning, policy development and the administration and support of statewide programs.

1-800-532-3213

[Aging Services | Health & Human Services \(iowa.gov\)](#)

Iowa Department of Inspections, Appeals, and Licensing

If you suspect dependent adult abuse in a facility or program, report the incident to the Health Facilities Division complaint Unit.

1-877-686-0027

[Report Abuse or Fraud | Department of Inspections, Appeals, & Licensing \(iowa.gov\)](#)