

# Dependent Adult Intake

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## **Overview**

Legal reference: 441 IAC 176.3(235B); Iowa Code Sections 235B.1, 235B.3, 235B.5; Iowa Code Chapter 235E

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](#), was 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](#).

The primary purpose of an APS intake is to obtain available and pertinent information regarding an allegation of dependent adult abuse. Your ability to gather this information is critical to the evaluation and assessment process and often the first step taken to initiate safeguards for dependent adults at risk. The intent of the law is to accept and process valid reports but not to infringe on an adult's constitutional right to privacy.

Be flexible and able to communicate effectively with callers by asking questions, recording necessary information, and being able to discern between significant and unnecessary information. A thorough intake will provide:

- Protection for a dependent adult.
- Necessary information for the assigned worker.
- Information and referral.
- Improved public awareness of the Department's roles, responsibilities, and limitations.

Protection for dependent adults in Iowa is provided by:

- Encouraging the reporting of suspected cases of abuse,
- The prompt and thorough evaluation or assessment of the reports,
- Intervening to provide protection to abused dependent adults, and
- Arranging for services for abused dependent adults.

Dependent adult abuse that occurs in the community, or in a facility if the perpetrator is not a staff member, is evaluated or assessed by the Department of Health and Human Services (referred to in this manual as "the Department" or HHS).

Dependent adult abuse that occurs in any of the following settings by a staff member is evaluated by the Department of Inspections and Appeals:

- Health care facility as defined in Iowa Code Section 135C.1,
- Hospital as defined in Iowa Code Section 135B.1,
- Elder group home as defined in Iowa Code Section 231B.1,
- Assisted living program certified under Iowa Code Section 231C.1, and
- Adult day program as defined in Iowa Code Section 231D.1.

Adults have constitutional rights guaranteeing certain freedoms. The Department strives to arrange services in the least restrictive manner possible. The goal is to balance an individual's right to personal freedom while attempting to protect adults who are unable to protect themselves.

### **Legal Basis**

Authority for the reporting and evaluation or assessment of dependent adult abuse and operation of the Central Abuse Registry is derived 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, "Dependent Adult Abuse," became effective January 1, 1983. It 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. It authorizes the Department of Inspections and Appeals to evaluate reports of suspected abuse of dependent adults, when the alleged perpetrator is a staff member, 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 Iowa Code under section 231C.3, and
  - Adult day service programs defined in Iowa Code Section 231D.1.
- 441 Iowa Administrative Code Chapter 176, "Dependent Adult Abuse," explains the dependent adult abuse program in greater detail.

## **Definitions and Terms**

Legal reference: 441 IAC 176.1(235B), 441 IAC 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, and 714.1; and *Black's Law Dictionary*, Eleventh Edition, West Group, 2019.

**“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))

**“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. (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 a person lacks 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 unrelated 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)

**“Coercion”** means communication or conduct which compels another to act or refrain from acting against their will.

**“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))

**“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 the 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, denial of critical care, or personal degradation 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 who 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, by acts or omissions, 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 adequately perform 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 which 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.
  - 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 caregiver. (441 IAC 176.1)(235B)

**“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(7))

**“Dependent Adult Abuse Reporting and Evaluation System”** also known as DARES is the system used by HHS to document all abuse referrals and completed assessments pertaining to dependent adult abuse.

**“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, or
- Any opinion or decision reached in the course of judicial proceedings, or
- The present status of the 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, emotional abuse, financial exploitation, neglect, isolation, or sexual exploitation of an older individual. (Iowa Code Chapter 235F and Iowa Code 726)

**“Emergency shelter services”** includes, but is not limited to, secure crisis shelters or 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 self. (See also the definition of “Assessment.”)

**“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. (Iowa Code Section 235B.2)

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

**“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 private dwellings, 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(7)) (Law enforcement officers may offer professional counseling to a family or household member when they are remaining with a victim of criminal dependent adult abuse.)

**“Fiduciary”** means a guardian, trustee, executor, administrator, receiver, conservator, attorney in fact, or any person, whether individual or corporate, acting in any fiduciary capacity for or on behalf of any older adult.

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

**“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 (as noted in italics below).
- 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 (as noted in italics below).
- 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 (as noted in italics below).
- 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, 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 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(8))

**“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.

**“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.

**“Mandatory reporter”** means a person who is required to make a report of suspected dependent adult abuse. Social workers and persons 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. (See 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(2)(a))

**“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 and are considered permissive 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(2)(b))

**“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))

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

**“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 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, 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 Adult Protection Worker after completing the evaluation or assessment of an allegation of abuse of a dependent adult. (441 IAC 176.6(235B))

**“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.

**“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)

**“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)

**“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.

NOTE: “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 means:
  - 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.

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)

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

“**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.*

“**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 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.

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



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## **Population Served**

Persons 18 or older whom 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 Department of Health and Human Services. (Iowa Code Section 235B.1)

Dependency status is a physical, mental, or 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.

## **Source of Reports**

Legal reference: Iowa Code Section 235B.3; 441 IAC 176.3(235B) through 176.6(235B); 176.9(235B)

The Department’s Abuse Hotline accepts calls 24 hours per day, seven days per week. The Abuse Hotline number is: 1-800-362-2178. The Department may receive initial inquiries from:

- Law enforcement,
- Service agencies,
- Directly from a person requesting assistance, or
- Any concerned party in the general public.

## **Mandatory Reporters**

Legal reference: Iowa Code Section 235B.3 and 235B.3(2); 441 IAC 176.3(235B) through 176.6(235B), 176.9 (235B)

Persons who in the course of employment examine, attend, counsel, or treat dependent adults are mandated to report suspected abuse. Mandated reporters do not need to obtain evidence of abuse to make a report, but only have to “reasonably believe a dependent adult has suffered abuse.” Mandatory reporters include the following:

- A peace officer.
- A health practitioner, including a:
  - Licensed physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, optometrist, podiatric physician, or chiropractor;
  - Resident or intern in any such professions;
  - Licensed dental hygienist;
  - Registered nurse or licensed practical nurse;
  - Physician assistant;
  - Licensed Massage Therapist; and
  - Certified emergency medical care provider.
- Medical examiners.
- An in-home homemaker home-health aide.
- An outreach person.

- A member of the staff of a community mental health center or a hospital.
- A member of the staff or employee of:
  - A supported community living service;
  - A sheltered workshop;
  - A work activity center;
  - An elder group home;
  - An assisted living program;
  - An adult day services program;
  - A public health care facility, including a residential care facility, a nursing facility, an intermediate care facility for persons with mental illness, or an intermediate care facility for persons with an intellectual disability.
- A social worker.
- A certified psychologist.

Mandatory reporters are required to report abuse when the abuse is suspected within the scope of their professional practice.

**Please note:** Sexual Assault Victim Advocates, Domestic Violence Advocates, long-term care ombudsmen, and financial institutes are NOT mandatory reporters.

### **Responsibilities of Mandatory Reporters**

Mandatory reporters who suspect a dependent adult has been abused are required to:

- Make an oral or written report to the Department within 24 hours.
- Make a report to law enforcement if it is believed the immediate protection of a dependent adult is needed.

Mandatory reporters working in facilities, agencies, and programs that provide care to dependent adults are required to report suspected abuse immediately to the appropriate department (HHS or DIA) and immediately notify the person in charge or the person's designated agent. **"Immediately" means within 24 hours from the time the abuse is suspected.** (441 IAC 176.1(235B))

### **Privileges of Mandatory Reporters**

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 civil or criminal liability which might otherwise be incurred or imposed based upon the act of making a 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 or the report, cooperation, or assistance.

Mandatory reporters are entitled to a written notification of the results of the evaluation or assessment and a copy of the report, upon request. This includes founded and unfounded reports. (Iowa Code Chapter 235B) Advise mandatory reporters to complete form [470-0643, Request for Child and Dependent Adult Abuse Information](#). See the [Appendix](#).

### **Required Information**

The oral or written report made by a mandatory reporter to the Department are required to include as much of the following as possible:

- Name and addresses of the dependent adult and persons believed to be responsible for the care of the dependent adult.
- Whereabouts of dependent adult if not the same as the address given.
- Reason the adult is believed to be dependent and reason the perpetrator is believed to be a caretaker of the dependent adult.
- Age of dependent adult.
- Nature and extent of suspected abuse.
- Information concerning suspected abuse of other dependent adults in the same residence.
- Any other information the reporter believes might be helpful in establishing if the abuse occurred or the identity of the person or persons responsible for the abuse, or helpful assisting the dependent adult.
- The name, address, and name of the agency of the person making the report.

The mandatory reporter may use form [470-2441, Suspected Dependent Adult Abuse Report](#), which outlines the necessary information. (See the [Appendix](#).)

When more than one mandatory reporter reasonably suspects abuse involving the same person, advise the reporters to make their report jointly to the Department.

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

Legal reference: Iowa Code Section 235B.3; 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 Information](#). See the [Appendix](#).

### **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.

### **Permissive Reporters**

Legal reference: Iowa Code Section 235B.3

Any person who suspects dependent adult abuse may make an oral or written report to the Department, or both. Although a permissive reporter may remain anonymous, try to obtain the name or phone number of the reporter so details may be clarified during the course of the evaluation or assessment, if necessary.

A permissive reporter is exercising responsibility as a concerned citizen when making a report of suspected dependent adult abuse. The permissive reporter is not required by law to report abuse, and there are no sanctions imposed upon a permissive reporter for failing to report suspected dependent adult abuse.

An employee of a financial institution may report financial exploitation of a dependent adult but is not considered a mandatory reporter. However, if in the course of an assessment or evaluation 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 the dependent adult evaluation, to include an outcome notice, to the dependent adult's bank, savings 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).

### **Mandatory Reporters Reporting Permissively**

Legal reference: Iowa Code Section 235B.3(2)

When people who are mandatory reporters suspect abuse outside of the scope of their professional duties, they are encouraged to report the allegation to the Department. They are not legally required to report, nor are they subject to the same duties or privileges that pertain to mandatory reporters.

### **Receiving Reports From Multiple Reporters**

Legal reference: Iowa Code Section 235B.3

When there is more than one report of suspected abuse regarding the same incident, the Department may advise the subsequent reporters that the report has already been received.

When more than one reporter separately makes a report of suspected dependent 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 this report of suspected abuse will also be accepted (either opened as a separate assessment or added/linked to the current assessment).

- Obtain supervisory approval to either accept as a separate assessment or link the intake as “Accept to current assessment” and document the incident number the new intake is being linked to as well as the Adult Protection Worker assigned to the open assessment.
- Within five working days, also send each reporter form [470-3944, Dependent Adult Abuse Notice of Intake Decision](#), stating the report of suspected dependent adult abuse has been accepted for assessment.
- Upload the mandatory reporter’s written report of dependent adult abuse into the File Manager for the incident number of the intake that was accepted as a result.

When you receive a report of dependent adult abuse from a reporter regarding allegations that have been previously investigated or assessed, and the reporter has **no new information**:

NOTE: “No new information” means that the report of dependent adult abuse is exactly the same as the one contained in a previous assessment or evaluation, including the same adult subject, caretaker, alleged abuse, and incident dates.

- Advise the reporter that no action will be taken because the report was previously assessed.
- Obtain supervisory approval to mark the intake as a “duplicate prior report” and document the incident number which previously assessed the current allegation.
- Within 24 hours of receiving the report, orally notify each mandatory reporter that the report has been rejected.
- Within five working days, also send each reporter form [470-3944, Dependent Adult Abuse Notice of Intake Decision](#), stating the report of suspected dependent adult abuse will not result in an assessment.

Upload the mandatory reporter’s written report of dependent abuse into the File Manager for the incident number of the rejected intake.

### **Screening, Triaging, and Assignment of Accepted Reports**

Legal reference: Iowa Code Sections 235B.2 and 708.1, Chapter 709; and section 726.2; 441 IAC 176.1(235B)

All reporters are entitled to the following:

- A thorough, courteous interview so the Department can obtain all known, relevant information concerning the abuse allegation.
- Notification of whether or not the report will be evaluated or assessed. Complete form [470-3944, Dependent Adult Abuse Notice of Intake Decision](#) for every intake. (See the [Appendix](#).)
- Referral to other services for the dependent adult when appropriate.
- Assurance that the reporter is immune from civil and criminal liability when making a report of dependent adult abuse, if the reporter expresses concern. This immunity is not dependent on the report being identified as “founded.”
- Assurance that the reporter’s identity will be safeguarded during the evaluation or assessment if the reporter expresses concern. However, you must inform the reporter that continued confidentiality can’t be guaranteed if the report results in civil or criminal court action.

- Assurance, if concern is expressed by the reporter, that it is unlawful for any person or employer to discharge, suspend, or otherwise discipline a person based solely upon the person's reporting or participating in an evaluation of suspected dependent adult abuse.

Complete form [470-0657, Dependent Adult Protective Services Intake](#) for every intake call when an allegation of dependent adult abuse is made, regardless of whether the allegation contains all necessary criteria to be assigned for evaluation or assessment. Try to obtain as much information as possible from the reporter. See the [Appendix](#) for instructions and a sample of the form.

The intake is a process to help the department screen for reasonable belief of dependency, identify allegations of abuse, triage pathway assignment, and assign timeframes for response (if report is accepted).

### **Criteria for Accepting a Report**

Legal reference: Iowa Code Sections 235B.2 and 708.1, Chapter 709; and section 726.2; 441 IAC 176.1(235B)

**For the Department to accept a report of dependent adult abuse, the allegation must include *all* the following elements:**

- There is a reasonable belief the alleged **victim is a dependent adult**, 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 that requires assistance from another.
- There is a reasonable belief the **person alleged responsible for the abuse is a caretaker**, or the abuse must be the result of acts or omissions of the dependent adult (**or self**). A "caretaker" is a related or unrelated person who is responsible for the protection, care, or custody of a dependent adult because of assuming the responsibility voluntarily, by contract, through employment, or by court order.
- The alleged incident must be a **category of abuse** as defined in Iowa Code Chapter 235B.

### **Screening for a Reasonable Belief of Dependency Status**

For every intake call, screening will be completed to assist in determining a dependency status for the adult subject. The reporter will be asked:

- What physical or mental condition has the adult been diagnosed with?
- Does the adult have adequate decision-making ability?
- Does the adult subject have a physical or mental impairment, or a combination of physical and mental impairments resulting in limitations in any of the following major life activities:
  - Cooking/meal preparation
  - Medical care
  - Self-supervision
  - Hygiene
  - Mobility
  - Cleaning
  - Finances
  - Dressing
  - Other (please explain)

- As applicable, the reporter may be asked the following:
  - Does the adult subject have a diagnosis or shows behaviors indicative of dementia or another neurodegenerative disease?
  - Does the adult’s medical provider currently report the adult subject cannot live safely in their own home and needs a higher level of care?
  - Currently, is the adult subject experiencing mental health conditions or symptoms resulting in an inability to meet essential human needs?
  - Currently, is the adult subject experiencing chronic substance abuse resulting in an inability to meet essential human needs?
  - Is the adult subject diagnosed with an intellectual or developmental disability?
  - Is the adult subject diagnosed with a brain injury?
  - Does the adult subject have a guardian or conservator?

Based upon the answers provided during the dependency screening, HHS will determine if the adult subject is reasonably believed to be a dependent adult.

### **Determining Who Is a Caretaker (Evaluation)**

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 an adult subject is not considered a caretaker. However, if someone provides a needed service, such as a meal every evening, and the adult subject 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 an adult subject 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.

To determine whether a person is a caretaker, consider the following:

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

If you can reasonably determine the caretaker does not meet the Iowa Code definition of caretaker, the report is not an appropriate referral for a dependent adult abuse evaluation. You may refer this matter to community services, if a service need is identified.

## **Making Reasonable Inferences**

Reasonable inferences can be made when assessing whether a report meets criteria for a dependent adult abuse evaluation or assessment.

1. A reporter states he was driving down a street and saw an older woman being dragged out of her wheelchair onto the sidewalk. The woman was screaming. The reporter does not have to indicate specific injuries for you to reasonably infer the activity described is an allegation of assault or physical abuse.
2. A reporter states that a woman who has a severe intellectual disability and is a resident of a skilled care facility has a sexually transmitted disease. You may reasonably infer that the woman is the victim of sexual abuse.
3. A reporter states that a man who is paralyzed from the neck down and bed-bound is left alone for up to six hours a day. You may reasonably infer this man is at risk of harm and, therefore, the situation as described is an allegation of denial of critical care due to lack of adequate supervision.

## **Categories of Abuse: Pathways**

**Assessment pathway:** Reports of denial of critical care due to the adult's own actions (self-denial) have a different pathway than reports of abuse when a caretaker is responsible.

Because the person responsible is the dependent adult, that person's name will not be subject to placement on the Central Abuse Registry. Instead of an evaluation, which is completed when a caretaker is responsible for the abuse, an assessment is completed and kept in the local case file.

Denial of critical care due to the adult's own actions (self-denial) has factoring unique to the category of abuse, so appropriately selecting denial of critical care due to the adult's own actions (self-denial) rather than unknown perpetrator, is a crucial category selection when entering the intake.

Denial of critical care due to the adult's own actions includes deprivation of the minimum:

- Food
- Shelter
- Clothing
- Physical care
- Mental health care
- Medical care
- Other care necessary to maintain a dependent adult's life or health

To determine whether the adult subject is responsible for denial of critical care due to the adult's own actions, consider the following:

- Consider if the adult subject has a pattern of depriving self of the minimum needs in the following areas: food, shelter, medical care, money management, or mental health care.
- Determine if a significant event occurred that brought the adult subject's self-deprivation minimum needs to maintain life or health to the attention of the reporter.



- An adult subject has the right to make unhealthy choices, if they are not health or life-threatening. Living in a dirty house or eating junk food is not denial of critical care, unless it is a deprivation of the minimum standard to maintain the adult subject's life or health.
- If you determine the adult subject is not responsible for denial of critical care due to the adult's own actions, it may be appropriate to refer the reporter to services or to other community resources.

**Evaluation pathway:** All of the other allegations are categorized as the **Evaluation Pathway**. These abuse categories occur as a result of the willful or negligent acts or omissions of a caretaker and include any of the following allegations.

### **Physical Abuse**

For a situation to be reportable as physical abuse, the reporter must reasonably suspect:

- The adult subject is a dependent adult,
- The dependent adult has suffered a physical injury,
- The injury is at variance with the history given of the injury, **or**
- Unreasonable confinement, **or**
- Unreasonable punishment, **or**
- Assault.

For a situation to be reportable as unreasonable confinement or punishment, the reporter must reasonably suspect the adult subject is a dependent adult and the adult subject was unreasonably confined or punished as the result of acts or omissions of a caretaker. This allegation includes legally unauthorized, medically unwarranted, or improperly administered:

- Restrictions of physical movement, lock up, binding, or chaining.
- Sedative medication.
- Unwarranted, humiliating, or degrading acts directed at the adult subject.

Unreasonable confinement or punishment of an adult subject **does not** include legally authorized, medically warranted, and properly administered:

- Restrictions of physical movement, lock up, binding, or chaining.
- Sedative medication.
- Time outs or other medical techniques, which restrict movement of the adult subject.

For a situation to be reportable as assault, the reporter must reasonably suspect the adult subject is a dependent adult and the adult subject was assaulted as the result of acts or omissions of the caretaker. This allegation includes any of the following:

- Any act, which is intended to cause pain or injury to the adult subject or intended to result in physical contact which will be insulting or offensive to the adult subject, coupled with the apparent ability to execute the act.
- Any act, which is intended to place the adult subject 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.

An assault is an attempt or offer, with force or violence and intent, to hurt another. It must be accompanied with the ability to execute the act. An assault **may** be committed without any actual injury to the victim. There does not need to be injury, as there does with other physical abuse reports.

A verbal threat alone is not an assault, unless surrounding circumstances indicate the immediate intent to execute the act.

The act is **not** assault when the caretaker and the dependent adult are voluntary participants in a sport, social activity, or other activity not in itself criminal, and the act is a reasonably foreseeable incident of such sport or activity, and does not create an unreasonable risk of serious injury or breach of the peace.

**Suggested questions:**

- Is the adult subject hospitalized? If not, is there a need for medical attention?
- Is legal action necessary to secure medical attention for the adult subject?
- Is law enforcement already involved? If not, do they need to be?
- Was the injury not accidental?
- What date did the injury occur and how did the injury occur?
- Were physical restraints used? If so, exactly how? Is this the proper method of restraint? Is this restraint done for the benefit of the adult subject or caretaker?
- Are there credible witnesses?
- Has the caretaker been trained on how to provide care?

It may be necessary to remind the medical reporter the Department has a right to the medical information.

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

**Sexual Abuse**

For a situation to be reportable as sexual abuse, the reporter must reasonably suspect:

- The adult subject is a dependent adult,
- A sexual offense has been committed against the adult subject, and
- The sexual offense suffered by the adult subject has occurred as a result of acts or omissions of a caretaker.

**Sexual abuse** means commission of a sexual offense under Iowa Code Sections 709 or Iowa Code Section 726.2 with or against a dependent adult. Sexual abuse includes several subcategories (see the definition of [sexual abuse](#)).

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

For a situation to be reportable as sexual exploitation of a dependent adult by a caretaker, the reporter must reasonably suspect:

- The adult subject is a dependent adult and
- The perpetrator is a caretaker providing services to a dependent adult.

**Sexual exploitation** means any sexual contact with a dependent adult. This includes, but is not limited to, kissing, touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, genitals, or a sex act as defined in Iowa Code Section 702.17.

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

It **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.

#### **Suggested questions:**

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

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

For a situation to be reported as sexual exploitation by a counselor or therapist, the report must reasonably suspect:

- The adult subject is a dependent adult and
- The perpetrator currently is, or has provided in the last year, counseling or therapeutic services to the adult subject.
- A sex act occurred, to include kissing, touching of the clothes or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals

“Counselor or therapist” means a physician, psychologist, nurse, professional counselor, social worker, marriage and 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.

Note: This definition includes staff in residential facilities who have the title of “counselor,” “treatment worker,” “therapist,” “cottage parent,” or other terms designating a position of authority over and responsibility for treatment services to dependent adults who are residing in the facility, even if these persons so no have professional degrees or training.

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

Suggested questions:

- When and where did the sexual act occur?
- If a sex act has not occurred, is there reason to believe it is being planned?
- What is the professional relationship between the adult subject and the identified perpetrator?
- Are there any creditable witnesses?
- Has the adult subject made a disclosure of inappropriate sexual contact?
- Were there any injuries?
- Were there any threats?
- Has law enforcement been notified?

### **Exploitation**

For the situation to be reportable as exploitation, the reporter must reasonably suspect the:

- Adult subject is a dependent adult,
- Dependent adult was exploited, and
- Exploitation occurred or was attempted as a result of acts or omissions of a responsible caretaker.

**Exploitation** means the act or process of taking unfair advantage of a dependent adult or the dependent adult’s physical or financial resources without the informed consent of the dependent adult, by the use of theft, undue influence, harassment, duress, deception, false representation, or false pretenses.

**Suggested questions:**

- What were the consequences to the adult subject? What happened to the adult subject as a result of the transaction?
- What was the adult subject’s understanding of what was to happen or how the money or resources were to be spent or used?
- Were the resources used to the benefit of the adult subject?
- What is the relationship between the adult subject and the person who has control of the resources or took advantage of the adult subject?
- Did the adult subject feel threatened to participate in the transaction?
- Did the person suspected of exploiting the adult subject provide alternatives to the transaction?

**NOTE:** Any attempt or effort to take unfair advantage of a dependent adult’s physical or financial resources by a caretaker qualifies as exploitation. **The attempt does not need to be successful.**

### **Denial of Critical Care**

For a situation to be reportable as denial of critical care, the reporter must reasonably suspect:

- The adult subject is a dependent adult,
- One of the types of denial of critical care have occurred,
- The abuse occurred as a result of the acts or omissions of a responsible caretaker, and
- There is immediate or potential danger of injury to or death of a dependent adult.

There are eight types of critical care the Department evaluates. They are:

- 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 provide emotional needs necessary for normal functioning.
- Denial of or failure to provide proper supervision.
- Denial of or failure to provide adequate physical care.

Any of the following can demonstrate denial of critical care that meets the criteria for accepting a report of dependent adult abuse:

- A dependent adult's basic needs are denied or ignored to an extent there is imminent or potential danger of the dependent adult suffering injury or death.
- A denial of, or a failure to provide, the mental health care necessary to treat a dependent adult's serious social maladjustment adequately.
- A gross failure of the caretaker to meet the dependent adult's emotional needs necessary for normal functioning.
- A failure by the caretaker to provide adequate supervision of the dependent adult.

It is necessary for the intake worker to engage the reporter in determining whether or not the dependent adult or the caretaker has sufficient resources to provide critical care or if medical care has been denied due to religious reasons.

### **Suggested 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?
- 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?
- How long was the dependent adult inadequately clothed?
- What medications does the dependent adult have?
- 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 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 these specific religious beliefs?
- 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?
- How has the dependent adult's behavior deteriorated?
- How significant is the deterioration of the dependent adult's behavior?
- What is the link between the caretaker's behavior and the dependent adult's reaction?
- 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?
- Does either the caretaker or the dependent adult know how to provide or obtain physical care?

### **Personal Degradation**

For a situation to be reportable as personal degradation, the reporter must reasonably suspect:

- The adult subject is a dependent adult and
- The caretaker made a statement or performed an act which was intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a dependent adult.

**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.

### **Suggested 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 to the act as alleged?
- 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?

## **What Is Not Dependent Adult Abuse**

The following examples are **not** dependent adult abuse:

- A report under Iowa Code Chapter 236, “Domestic Abuse,” when the victim is not “dependent” as defined in this chapter. A domestic abuse report does not constitute a report of dependent adult abuse. The victim must be a dependent adult and the person responsible for the abuse must meet the definition of “caretaker” found in this chapter, and the abuse must be one of the allegations defined as dependent adult abuse.
- When a dependent adult declines medical treatment, 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.
- When the dependent adult’s caretaker, acting in accordance with the dependent adult’s stated or implied consent, declines medical treatment, 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. (Iowa Code Section 235B.2 (5)(b))
- Withholding and withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding and withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult’s next of kin or guardian, pursuant to the applicable procedures in Iowa Code Chapters 125, 144A, 222, 229, or 633.
- Any report concerning a person legally incarcerated in a penal setting, either in a local jail or in the custody of the director of the Department of Corrections, when the allegation pertains to correctional staff as caretakers.

## **Search for Previous Reports and Relevant Information**

Legal reference: Iowa Code Section 235B.5(6)

For every report of abuse received, complete a search for previous reports or relevant information concerning the dependent adult. Search available data systems and document finding.

## **Use of Rejected Intake Information**

Legal reference: Iowa Code Section 235B.5(6)

Rejected intakes are retained for the purpose of using the information contained in them to consider in future intake decisions and in future protective evaluations or assessments.

Information contained in a rejected intake is not considered dependent adult abuse information. Rejected intakes have more limited legal access than dependent adult abuse evaluation or assessment reports. This information is confidential and protected and it is governed by the same confidentiality provisions as service case records.

Consider rejected intake information during intake to ensure you have comprehensive information concerning the dependent adult’s safety.

Retrieve, analyze, and assess the information contained in rejected intakes to determine whether previously rejected information, combined with the current allegation, meets the legal threshold for acceptance.



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## **In-Depth Intakes**

Legal reference: 441 IAC 176.3(235B)

An in-depth intake may involve contacting any mandatory reporters who may have knowledge of the dependent adult's circumstances and information regarding the abuse allegation, or contacting the reporter again (either mandatory or permissive) in a specific case to obtain additional information.

An in-depth intake may be appropriate when any of the following occur:

- The allegations of the referral are unclear or contradictory.
- The motive of the reporter appears to be one of harassment or vengeance.
- The allegations of the referral are not sufficient for a case to be assigned for evaluation or assessment, because one or more of the criteria necessary to initiate an evaluation or assessment are missing (dependent adult, caretaker, or abuse allegation).

Only persons who qualify as mandatory reporters or the person making the report may be contacted during the in-depth intake process to expand or to clarify information in the report of abuse. Do not contact subjects of the report or persons who are not mandatory reporters, because such an action would require the report be accepted as an evaluation or assessment.

### **Intake on Dependent Adults Who Have Died**

If it is reported there is a suspicion a dependent adult has died as a result of actions the **dependent adult** did or did not take, do **not** accept the referral.

If it is reported there is a suspicion a dependent adult has died as a result of actions a **caretaker** did or did not take, accept the referral.

If the person who is suspected of being responsible for the abuse is deceased, do **not** accept the report for evaluation, unless the adult subject appears to be a dependent adult who is unsafe or at risk of further abuse.

If a caretaker is suspected of dependent adult abuse (to include financial exploitation) at the time an adult subject was living, but the adult subject is now deceased, accept the referral.

Note: It is important to remember the department also has a statutory obligation to protect the public. Even though the adult subject is deceased and thus our evaluation will not result in recommendations pertaining to service provisions, the purpose of the evaluation will be to determine if the perpetrated abuse/neglect warrants registry placement.

*Remind reporters to notify law enforcement on fatality cases.*

### **Information and Referral on Rejected Intakes**

Legal reference: Iowa Code Section 235B.3

View every intake call as a means to educate reporters regarding the dependent adult abuse program. **You must obtain enough information to be able to determine a reasonable belief does not exist to suspect abuse or neglect has occurred before a report can be rejected.** Supervisory approval is required to reject a report.

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When the information being reported does not meet the criteria for an evaluation or assessment, advise the reporter of the missing criteria. Assure the reporter a supervisor will make the final determination whether a report will be accepted or rejected. Document what you have told the reporter in the Dependent Adult Abuse Reporting and Evaluation System (DARES) intake module.

The conversation may serve as notification to the reporter that the report has been rejected. The reporter can identify any missing requirement and attempt to obtain the information or can better understand what is required for protective services to accept a report.

Explain to the reporter the report must meet all criteria and the report is being rejected for one of the following reasons:

- The person who is the alleged victim of the suspected abuse is not a dependent adult.
- The allegations do not constitute abuse.
- The person alleged responsible for the abuse is not a caretaker of the dependent adult.
- Reasonable belief does not exist to suspect abuse or neglect occurred.
- The reported allegation was previously evaluated or assessed and the report contains no new information.

Encourage reporters to make their own referral to resources that are more appropriate when the information does not fall within the definitions of dependent adult abuse. If appropriate, refer the reporter to the following agency or person:

- A law enforcement agency
- A community-based service program (such as a local area agency on aging, an attorney, or local domestic violence services)
- Other services as appropriate

If a referral of abuse is reported for an out-of-home care setting or HCBS (Home and Community Based Services) waiver home setting and appears to be a licensing, certification, policy, or procedural issue, refer the reporter to the licensing person or the administrator of the facility, agency, or program.

When the referral does not meet the criteria for an evaluation but alleges illegal activity, ask the reporter to notify law enforcement and document the recommendation in the intake module.

When a report does not meet the criteria to be evaluated or assessed, but an adult's safety appears to be in jeopardy, advise the reporter the adult may be eligible for services provided in the community.

If the dependent adult has a mental health diagnosis or an intellectual disability, refer the reporter to the central point of coordination administrator in the county the dependent adult resides.

If the referral of abuse does not meet the criteria for an evaluation, but it occurred between family members or persons residing in the same household, refer the reporter to the local domestic violence or sexual assault victim advocacy agency.

If the referral of abuse does not meet the criteria for an evaluation or assessment but concerns legal issues, refer the reporter to the county attorney's office or Legal Aid.

Document any referrals via the DARES intake module.

A supervisor must review the report and make the final determination about rejecting or assigning it for an evaluation or assessment. Once the supervisor accepts or rejects the intake, the date and time will autofill into the intake form. This information will populate onto the notice of intake decision, which is sent out via DARES, central print.

Copies of rejected reports go to the county attorneys via the county attorney portal. HHS must maintain rejected reports for three years, and then destroy them.

If a subject of a report requests information about a rejected intake involving the subject, provide a copy of the rejected intake to the subject, if available.

### **Additional Allegations**

When additional allegations are received concerning the **same** adult subject and the **same** alleged perpetrator (if applicable) on a current open evaluation or assessment, determine if the abuse report meets criteria for an assessment.

- If the additional allegations **do not** meet criteria for assessment/evaluation, complete a rejected intake and send the rejected intake to the adult protection worker and supervisor of the open assessment.
  - Advise the reporter that the report of dependent adult abuse is rejected.
  - Within five working days, send the reporter form [470-3944, Dependent Adult Abuse Notice of Intake Decision](#), stating the report of suspected dependent adult abuse has been rejected for assessment.
  - Upon receipt, upload the mandatory reporter's written report of dependent adult abuse into the JARVIS File Manager for the incident number of the intake.
- If the additional allegations **do** meet the criteria for assessment/evaluation, complete an accepted intake and obtain supervisory approval to either accept as a separate assessment or link the intake as "accept to current assessment."
  - If the additional allegation is the same as the open assessment, "accept to current assessment" with no new timeframe. If the additional allegation is a new allegation, select the appropriate timeframe.
  - Advise the reporter that the report of dependent adult abuse is accepted.
  - Within five working days, send the reporter form [470-3944, Dependent Adult Abuse Notice of Intake Decision](#), stating the report of suspected dependent adult abuse has been accepted for assessment.
  - Upon receipt, upload the mandatory reporter's written report of dependent adult abuse into the JARVIS File Manager for the incident number of the intake.

**NOTE:** When additional allegations are received concerning the **same** adult subject but a different alleged perpetrator on a current open evaluation or assessment, determine if the abuse report meets criteria. If the report meets criteria, a separate assessment/evaluation must be opened and cannot be linked.

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## **Notice of Intake Decision**

Legal reference: 441 IAC 176.5(5)

Tell the reporter of an allegation of abuse whether the report of abuse will be accepted or rejected for evaluation or assessment at the time of the initial report if you are reasonably certain the report will be rejected or accepted.

Within five working days from the date the report was made, send [form 470-3944, Dependent Adult Abuse Notice of Intake Decision](#), to **every person** who has reported an allegation of dependent adult abuse. This includes all mandatory reporters, even if the report has already been reported or assessed. The notice should be sent through DARES, central print.

## **Boarding Home Referrals**

Legal reference: Iowa Code Section 1350

The Department of Inspections and Appeals (DIA) registers boarding homes. However, if there are allegations regarding the care or safety a person living in a boarding home, a coordinated, interagency approach shall be used to respond to the allegation.

The response may involve a multidisciplinary team composed of representatives from DIA, HHS, the Division of Criminal Investigations, the state fire marshal, or other federal, state, or local agencies. The team may consult with other entities.

HHS may receive a referral on a boarding home, or the referral could go to DIA or any other agency. Because HHS completes reports of abuse in boarding homes, accept the report if it is an allegation of abuse of a dependent adult. Upon acceptance, immediately call the Help Desk at: 866-347-7782. The Help Desk will coordinate the referral with DIA.

If you receive a referral concerning a “boarding home” that is not directly related to a suspicion of abuse of a dependent adult, call the Help Desk at: 866-347-7782. The Help Desk will coordinate the referral with DIA.

The Help Desk may call and request a social worker be assigned to complete a dependency assessment using [470-4841, Dependent Adult Assessment Tool](#) on individuals residing in a boarding home that DIA is investigating for violations of boarding home registrations.

Enter an intake on the DARES for these assignments. To maintain confidentiality, only the adult subject should be listed in the household composition. List all other residents in the additional information section of the intake document. Complete an intake in DARES with an acceptance if HHS is evaluating. Enter the intake into DARES and reject with a referral to DIA, if DIA is evaluating, as advised by the help desk or your supervisor.

## **Household Composition in Congregate Care Settings**

When the allegation of abuse concerns an adult subject in a congregate care setting, list only the adult subject as a household member. List all other residents in the additional information section of the intake document.

## **Jurisdiction: Investigations in Congregate Care Settings Under the Jurisdiction of DIA.**

Legal reference: Iowa Code Chapter 235E

The Department of Inspections and Appeals (DIA) is responsible for the evaluation and disposition of dependent adult abuse reports within the following facilities when facility or program staff or employees are alleged persons responsible for the abuse:

- Health care facilities licensed under Iowa Code Chapter 135C, which include:
  - Residential care facilities (RCFs)
  - Nursing facilities
  - Intermediate care facilities for persons with an intellectual disability (ICFs/ID)
  - Intermediate care facilities for persons with mental illness (ICFs/MI)
- Hospitals (as defined in Iowa Code Chapter 135B)
- Elder group homes (as defined in Iowa Code Chapter 231B)
- Assisted living programs (certified under Iowa Code Chapter 231C)
- Adult day services programs (as defined in Iowa Code Chapter 231D)

### **Determining if a Facility Is Licensed by DIA**

Legal reference: Iowa Code 235B.3(1)(a)(2)

To find out if a program, agency, or facility is licensed by DIA under Iowa Code Chapter 135C, go to <https://dia-hfd.iowa.gov>, the DIA facility website. **You must use Google Chrome or Microsoft Edge to access this website.**

Enter all known information into the “Entity Search” field and click “Search.” If the facility or agency is listed as an entity type of a residential care facility, nursing facility, intermediate care facility for persons with mental illness, intermediate care facility for persons with an intellectual disability, hospital, elder group home, assisted living program or adult day service program, DIA has responsibility for evaluating dependent adult abuse for that agency **if the perpetrator is a staff member**. If the alleged perpetrator is a caretaker, but not a staff member, HHS will conduct the evaluation.

**NOTE:** HHS is responsible for any evaluation in a congregate care setting if not listed above under DIA jurisdiction.

The DIA is solely responsible for the evaluation and disposition of dependent adult abuse reports in health care facilities and the programs listed above except outside business hours (8:00 AM – 4:30 PM, Monday through Friday), on holidays, and on weekends. HHS is responsible for intakes for DIA after hours, on holidays, and on weekends.

#### ***After hours, holidays, and weekend protocol for referrals to DIA:***

- Take intake information as you would normally after hours and enter intake into DAAS/DARES. Reject the intake with a referral to DIA.
- Assess immediate threat or safety concerns. (See [Allegations Received After Hours, Weekends, or Holidays in Facilities Where DIA Evaluates](#))

- Send intake and your notes in PDF format by the next business day to DIA at [hfd\\_complaint@dia.iowa.gov](mailto:hfd_complaint@dia.iowa.gov).
- DIA reviews the intake information and takes appropriate action.

***During business hours:***

- If DIA has jurisdiction, consult with your supervisor if necessary and forward the caller immediately to DIA at (877) 686-0027.
- Send all other referrals and complaints to [hfd\\_complaint@dia.iowa.gov](mailto:hfd_complaint@dia.iowa.gov).

When a referral is not determined to involve a DIA facility or program until after intake is completed, fax the completed intake to DIA at 515-281-7106 as soon as possible.

When the referral is on an alleged perpetrator who is not a facility or program staff member, complete an intake and handle like any other case.

**Allegations in HHS-Operated Facilities Assessed By DIA**

DIA is responsible for evaluation of dependent adult abuse reports on consumers in the following HHS-operated facilities when an employee is the person alleged responsible for the abuse:

- Cherokee Mental Health Institute (including the Civil Commitment Unit for Sex Offenders – CCUSO)
- Independence Mental Health Institute
- Glenwood Resource Center (including HCBS waiver homes)
- Woodward Resource Center (including HCBS waiver homes)

Immediately forward allegations of dependent adult abuse by a staff member of one of these facilities to the DIA as described above.

**HHS Responsibilities for Allegations in Facilities Where DIA Evaluates**

Legal reference: Iowa Code Sections 235B.3(1), 135C.1(5); 231B.1; 231C.1; 231D.1; 441 IAC 176.6(1)

Department staff are responsible for evaluating alleged abuse of a dependent adult who resides in a health care facility or an elder group home or participates in an assisted living program or adult day services program when:

- The person alleged responsible for the abuse is not a staff member of the facility or program. This includes an allegation of financial exploitation when someone outside 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 with a caretaker other than facility staff.

In such cases, complete an intake of the allegation of dependent adult abuse of a resident of a health care facility or program as you would any other report of dependent adult abuse in the community.

## **Allegations Received After Hours, Weekends, or Holidays in Facilities Where DIA Evaluates**

**Legal reference:** 441 IAC 176.6(1)

When a referral is made after 4:30 PM Monday through Friday or on weekends or holidays alleging abuse of a dependent adult by staff of a health care facility, an elder group home, an assisted living program, or an adult day services program, HHS will assess the immediate threat to the physical safety of the resident. DIA will complete the evaluation of abuse.

Should the reporter provide information that the adult is currently safe and not in immediate danger, the information will be documented in the rejected intake additional information section. If the intake supervisor agrees that the information provided to the intake worker by the reporter indicates the adult is safe, there is no need to forward the rejected intake to on-call worker.

It is most likely safety can be ensured during the intake call, but not always. There could be times that the reporter has no information about the adult's current situation and safety cannot be ensured. If the adult's safety cannot be ensured during the intake call or if it appears the adult subject is at risk of immediate danger to health or safety, contact local law enforcement for assistance. Get the intake information to the worker on duty as soon as possible. See 18-B(3), [HHS Response to Allegations After Hours, Weekends, and Holidays for DIA](#).

## **Case Assignment**

**Legal reference:** Iowa Code Section 235B.3

Once it is determined that a report constitutes an allegation of dependent adult abuse, the case will be assigned for evaluation or assessment. The protective services worker that serves the county where the dependent adult's home is located has primary responsibility for completing the dependent adult abuse evaluation or assessment.

If a dependent adult is in a placement and is alleged to have been abused in that placement, the protective services unit that serves the county where the dependent adult lives or is placed has responsibility for completing the evaluation or assessment. The following chart will clarify jurisdictional issues:

<b>If the dependent adult resides:</b>	<b>And the alleged abuse occurred:</b>	<b>The county with jurisdiction is:</b>
At home	In the home	The home county
At home	In former placement	The home county
With relatives	At the relative's home	The relative's county
In placement	At home	The placement county
In placement	In that placement	The placement county
In placement	In a former placement	The placement county
In placement	At camp or vacation	The placement county

## **Courtesy Interviews**

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

1. The requesting APS region emails the DAA Unit Box ([DAAunit@dhs.state.ia.us](mailto:DAAunit@dhs.state.ia.us)) and requests a courtesy interview. Ensure the county of which the courtesy interview is being requested is identified in the subject line of the email.
2. The requesting region explains the situation and forwards materials as necessary.

## **Abuse Occurred in Another State and Dependent Adult Lives in Iowa**

When the dependent adult who is the subject of an allegation of abuse physically resides in Iowa but allegedly was abused in another state, complete [form 470-0657, Dependent Adult Protective Services Intake](#).

If your supervisor determines the allegation meets the dependent adult abuse criteria, make a report to the other state's Adult Protective Services Agency for the area where the abuse allegedly occurred.

Request assistance from the state where the abuse occurred in completing the evaluation. The National Adult Protective Services Association website for other state contact information: <http://www.napsa-now.org/get-help/help-in-your-area/>.

If the other state agrees to assist, send them a copy of the intake form [470-0657, Dependent Adult Protective Services Intake](#).

## **Dependent Adult Resides Out of State but Is Currently in Iowa**

When a referral is on a dependent adult who is a legal resident of another state, but lives in Iowa, complete form [470-0657, Dependent Adult Protective Services Intake](#).

If your supervisor determines the referral meets the criteria for dependent adult abuse, contact the adult protective services agency for the state where the dependent adult is a resident and offer assistance in an evaluation or assessment. Consult the National Adult Protective Services Association website for contact information in the other state: <http://www.napsa-now.org/get-help/help-in-your-area/>.

If the state of residency refuses or declines to conduct an evaluation or assessment, follow procedures for assigning the referral, unless the state of residency has already completed an evaluation or assessment.

## **Dependent Adult Out of State, Person Alleged Responsible in Iowa**

When the report of abuse concerns a dependent adult living in another state, but the person alleged responsible for the abuse resides in Iowa, complete form [470-0657, Dependent Adult Protective Services Intake](#).



Contact the adult protective services agency in the state where the dependent adult lives and offer assistance with interviewing the person allegedly responsible for the abuse and any other collateral contacts. Consult the National Adult Protective Services Association website for contact information in the other state: <http://www.napsa-now.org/get-help/help-in-your-area/>.

If the state of residency refuses or declines to conduct an evaluation or assessment, follow procedures for assigning the referral, unless the state of residency has already completed an evaluation or assessment.

### **Allegations Involving Department Employees**

**Legal reference:** 441 IAC 176.7(1)

When the person alleged to be responsible for abuse of a dependent adult is a Department employee and the alleged abuse did not occur within a licensed health care facility or Department-operated facility, complete a *Dependent Adult Protective Services Intake* in DARES. Email the request for approval to your supervisor, who will refer it to the APS Director or designee for assignment.

When the alleged victim is a resident of a Department-operated facility, the Department of Inspections and Appeals will complete the evaluation.

When the alleged victim is a son, daughter, stepson, stepdaughter, parent, stepparent, aunt, uncle, grandparent, or legal ward of a Department employee, the worker should determine where the alleged victim lives. Your supervisor will contact the APS Director or designee, who will assign the referral to a different APS team in a different APS area and inform the Division of Field Operations Support of the allegations.

Your supervisor will provide the report information to the APS Director or designee in the service area that will be conducting the evaluation. The Director or designee will assign a worker. Every effort will be made to ensure complete confidentiality and objectivity in completing the abuse evaluation.

Use of any special local protocol in the evaluation of dependent adult abuse reports involving dependent adults related to department employees will be approved by the APS Director or designee for the area where the dependent adult lives and for the APS worker assigned to the report.

### **Assignments and Time Lines**

**Legal reference:** 441 IAC 176.7(1)

If you believe there is an immediate threat to the physical safety of the dependent adult complete [form 470-0657, \*Dependent Adult Protective Services Intake\*](#) and provide it to your supervisor as soon as possible. If the concerns identified meet criteria for acceptance, take the following steps:

- Intake worker will verbally staff the identified concerns with an intake supervisor.
- Intake supervisor will then determine if law enforcement should be contacted.
- If determined appropriate by the supervisor, the intake worker will call law enforcement regarding the identified concerns.

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- Intake worker will document the notification of law enforcement and any other information or updates received from law enforcement in the additional information section of the intake.
  - If law enforcement calls back (regardless if they are the original reporter) with additional information, the intake worker will write up a new intake with the information from law enforcement and either link the intake to the incident that was already accepted (or that is in the process of being written up so long as it is preliminarily accepted), or if appropriate, write up a new intake as a standalone incident that is not linked.

If there is information the alleged perpetrator has access to the adult subject, the protective service worker has **24-hours** from the commencing of the assessment/evaluation to make every reasonable effort to observe the dependent adult and take any lawful action necessary or advisable for the protection of the dependent adult.

When there is information the alleged perpetrator clearly has no access to the adult subject, or there are service provisions in place to mitigate any safety concerns, the protective services worker has **72-hours** from the commencing of the assessment/evaluation to observe the dependent adult.