

CHAPTER 176
DEPENDENT ADULT ABUSE
[Prior to 7/1/83, Social Services[770] Ch 156]
[Previously appeared as Ch 156—renumbered IAB 2/29/84]
[Prior to 2/11/87, Human Services[498]]

441—176.1(235B) Definitions.

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

1. 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.
2. The commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2 with or against a dependent adult.
3. Exploitation of a dependent adult which means the act or process of taking unfair advantage of a dependent adult or the adult’s physical or financial resources for one’s own personal or pecuniary profit, without the informed consent of the dependent adult, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.
4. 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.

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

“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.

“Assault” means “assault” as defined in Iowa Code section 708.1.

“Caretaker” means a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.

“Collateral sources” means any person or agency who is presently providing, either in a professional or paraprofessional capacity, service to the dependent adult, including, but not limited to, doctors, counselors, and public health nurses.

“Confidentiality” means the withholding of information from any manner of communication, public or private.

“Denial of critical care” exists when the dependent adult’s basic needs are denied or ignored to such an extent that there is immediate or potential danger of the dependent adult suffering injury or death, or is a denial of, or a failure to provide the mental health care necessary to adequately treat the dependent adult’s serious social maladjustment, or is a gross failure of the caretaker to meet the emotional needs of the dependent adult necessary for normal functioning, or is a failure of the caretaker to provide for the proper supervision of the dependent adult.

“Department” means the department of human services and includes the county and central offices of the department, unless otherwise specified.

“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.

“Expungement” means the process of destroying dependent adult abuse information.

“Immediate danger to health or safety” means a situation in which death or severe bodily injury could reasonably be expected to occur without intervention.

“Immediately” means within 24 hours when referring to mandatory reporters reporting suspected abuse of a dependent adult.

“*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.

“*Informed consent*” (as used in Iowa Code paragraph 235B.2(5)“c”) 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.

“*Minimum food, shelter, clothing, supervision, physical and mental health care, and other care*” means that food, shelter, clothing, supervision, physical and mental health care, and other care which, if not provided, would constitute denial of critical care.

“*Multidisciplinary team*” shall mean a membership 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, social work, law, law enforcement and other disciplines relative to dependent adults. Members of the team shall include, but are not limited to, persons representing the area agencies on aging, county attorneys, health care providers, and others involved in advocating or providing services for dependent adults.

“*Physical injury*” means damage to any bodily tissue to the extent that 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 that 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.

“*Preponderance of evidence*” shall mean evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it.

“*Proper supervision*” means that supervision which a reasonable and prudent person would exercise under similar facts and circumstances, but in no event shall a person place 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.

“*Registry*” means the central registry for dependent adult abuse information established in Iowa Code Supplement section 235B.5.

“*Report*” means a verbal or written statement, made to the department, which alleges that dependent adult abuse has occurred.

441—176.2(235B) Denial of critical care. The failure on the part of the caretaker or dependent adult to provide for minimum food, shelter, clothing, supervision, physical or mental care, and other care necessary for the dependent adult’s health and welfare when financially able to do so or when offered financial and other reasonable means to do so shall constitute denial of critical care to that dependent adult.

441—176.3(235B) Appropriate evaluation. Immediately upon receipt of a dependent adult abuse report the worker shall conduct an intake sufficient to determine whether the allegation constitutes a report of dependent adult abuse.

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

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

176.3(2) Nondependent adult abuse situations. The following are not dependent adult abuse situations:

- a.* A report of domestic abuse under Iowa Code chapter 236, Domestic Abuse, does not in and of itself constitute a report of dependent adult abuse.
- b.* Circumstances in which the 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.
- c.* Circumstances in which 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.
- d.* 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 under Iowa Code chapter 125, 144A, 222, 229, or 633.
- e.* All persons legally incarcerated in a penal setting, either in a local jail or confined to the custody of the director of the department of corrections.

176.3(3) Reports of dependent adult abuse which are the result of the acts or omissions of the dependent adult shall be collected and maintained in the files of the dependent adult as assessments only and shall not be included on the central registry. The central registry shall be notified as to the disposition of the assessment.

441—176.4(235B) Reporters. The central registry and county office shall accept reports from mandatory reporters or any other person who believes dependent adult abuse has occurred.

176.4(1) Mandatory reporters shall:

- a.* Report suspected abuse of a dependent adult within 24 hours of becoming aware of an abusive incident.
- b.* Make a written report within 48 hours after an oral report.

176.4(2) The reporter may use the department's Form 470-2441, Suspected Dependent Adult Abuse Report, or may use a form developed by the reporter that meets the requirements of Iowa Code section 235B.3.

441—176.5(235B) Reporting procedure.

176.5(1) Each report made by someone other than a mandatory reporter may be oral or written.

176.5(2) The report shall be made by telephone or otherwise to the department of human services. When the person making the report has reason to believe that immediate protection for the dependent adult is advisable, that person shall also make an oral report to an appropriate law enforcement agency.

176.5(3) The department of human services shall:

- a.* Immediately, upon receipt of a report, make an oral report to the registry;
- b.* Forward a copy of the report to the registry; and
- c.* Promptly notify the appropriate county attorney of the receipt of any report.

176.5(4) The report shall contain the following information, or as much thereof as the person making the report is able to furnish:

- a.* The names and home addresses of the dependent adult, appropriate relatives, caretakers, and other persons believed to be responsible for the care of the dependent adult.
- b.* The dependent adult's present whereabouts if not the same as the address given.
- c.* The reason the adult is believed to be dependent. Dependency is the first criterion to be considered before beginning an evaluation.
- d.* The dependent adult's age.

e. The nature and extent of the adult abuse, including evidence of previous adult abuse. The existence of alleged adult abuse is the second criterion to be considered before beginning an evaluation.

f. Information concerning the suspected adult abuse of other dependent adults in the same residence.

g. Other information which the person making the report believes might be helpful in establishing the cause of the abuse or the identity of the person or persons responsible for the abuse, or helpful in providing assistance to the dependent adult.

h. The name and address of the person making the report.

176.5(5) A report shall be accepted whether or not it contains all of the information requested in 176.5(4), and may be made to the department, county attorney, or law enforcement agency. When the report is made to any agency other than the department of human services, that agency shall promptly refer the report to the department.

441—176.6(235B) Duties of the department upon receipt of report.

176.6(1) When a report is received, the department shall promptly commence an appropriate evaluation or assessment, except that the department of inspections and appeals is responsible for the evaluation and disposition of a case of adult abuse in a health care facility, including hospitals as defined in Iowa Code section 135B.1 and facilities as defined in Iowa Code section 135C.1. The department shall forward all reports and other information concerning adult abuse in a health care facility to the department of inspections and appeals on the first working day following the submitting of the report. The department of inspections and appeals shall inform the registry of all actions taken or contemplated concerning the evaluation or disposition of a case of adult abuse in a health care facility. The primary purpose of the evaluation or assessment by the department shall be the protection of the dependent adult named in the report.

176.6(2) The evaluation or assessment shall include all of the following:

a. Identification of the nature, extent, and cause of the adult abuse, if any, to the dependent adult named in the report.

b. The identification of the person or persons responsible for the adult abuse.

c. A determination of whether other dependent adults in the same residence have been subjected to adult abuse.

d. A critical examination of the residential environment of the dependent adult named in the report, and the dependent adult's relationship with caretakers and other adults in the same residence.

e. A critical explanation of all other pertinent matters.

176.6(3) The evaluation or assessment, with the consent of the dependent adult or caretaker, when appropriate, may include a visit to the residence of the dependent adult named in the report and an examination of the dependent adult. If permission to enter the residence and to examine the dependent adult is refused, the district court, upon a showing of probable cause that a dependent adult has been abused, may authorize a person, authorized by the department, to make an evaluation or assessment, to enter the residence of, and to examine the dependent adult.

Upon a showing of probable cause that a dependent adult has been financially exploited, a court may authorize a person, also authorized by the department, to gain access to the financial records of the dependent adult.

176.6(4) County attorneys, law enforcement agencies, multidisciplinary teams as defined in Iowa Code section 235B.1, subsection 1, and social services agencies in the state shall cooperate and assist in the evaluation or assessment upon the request of the department. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

176.6(5) The department, upon completion of its evaluation, shall transmit a copy of its preliminary report, including actions taken or contemplated, to the registry within four regular working days after the department receives the adult abuse report, unless the registry grants an extension of time for good cause shown. If the preliminary report is not a complete report, a complete report shall be filed within ten working days of the receipt of the abuse report, unless the registry grants an extension of time for good cause shown.

The department, upon completion of its assessment in reports when the abuse is the result of the acts or omissions of the dependent adult, shall place the report, including actions taken or contemplated, in the case file of the dependent adult. The central registry shall be notified as to the disposition of the assessment.

176.6(6) The department shall also transmit a copy of the report of its evaluation or assessment to the appropriate county attorney. The county attorney shall notify the county office of the department of any actions or contemplated actions with respect to a suspected case of adult abuse.

176.6(7) Based on the evaluation, the department shall complete an assessment of services needed by a dependent adult believed to be the victim of abuse, the dependent adult's family, or a caretaker. The department shall explain that the department does not have independent legal authority to compel the acceptance of protective services. Upon voluntary acceptance of the offer of services, the department shall make referrals or may provide necessary protective services to eligible dependent adults, their family members, and caretakers. The department may establish a sliding fee schedule for those persons able to pay a portion of the protective services provided. The following services may be offered and provided without regard to income: dependent adult protection, social casework, adult day care, adult support, transportation, and family planning.

176.6(8) Court action. When, upon completion of the evaluation or assessment or upon referral from the state department of inspections and appeals, the department determines that the best interests of the dependent adult require court action, the department shall initiate action for the appointment of a guardian or conservator, or for admission or commitment to an appropriate institution or facility, pursuant to the applicable procedures under Iowa Code chapter 125, 222, 229, or 633. The department may pursue other remedies provided by law pursuant to the applicable procedures under Iowa Code sections 235B.17, 235B.18, 235B.19, and 235B.20 or any other legal remedy which provides protection to a dependent adult. The appropriate county attorney shall assist the department in the preparation of the necessary papers to initiate the action, and shall appear and represent the department at all district court proceedings.

176.6(9) The department shall assist the district court during all stages of court proceedings involving a suspected case of adult abuse.

176.6(10) In every case involving adult abuse which is substantiated by the department and which results in a judicial proceeding on behalf of the dependent adult, legal counsel shall be appointed by the court to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult when necessary to protect the dependent adult's best interests. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem. Before legal counsel or a guardian ad litem is appointed pursuant to Iowa Code section 235B.3, subsection 7, paragraph "c," the court shall require the dependent adult and any person legally responsible for the support of the dependent adult to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counsel or guardian ad litem, the court shall so order. In cases where the dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or guardian ad litem, the expense shall be paid by the county.

176.6(11) Notification of licensing authority. Based on information discovered during an evaluation of dependent adult abuse in a program providing care to a dependent adult, the department shall notify the licensing or accrediting authority for the program, the governing body of the program, and the administrator in charge of the program of any of the following:

- a. A violation of program policy noted in the evaluation.
- b. An instance in which program policy or lack of program policy may have contributed to the dependent adult abuse.
- c. An instance in which general practice in the program appears to differ from the program's policy.

The licensing or accrediting authority, the governing body, and the administrator in charge of the program shall take any lawful action which may be necessary or advisable to protect dependent adults receiving care in the program.

176.6(12) Assessments by other agencies. The department may approve agencies considered capable and appropriate to complete assessments of dependent adults who are suspected of being abused.

- a. The department may make a referral to an approved agency to complete an assessment of a dependent adult who is suspected of being abused, in conjunction with a department abuse evaluation or assessment on the dependent adult.
- b. The department may use information obtained from the assessment completed by the approved agency in the abuse evaluation or assessment. The department has complete authority in determining the conclusions of the abuse evaluation or assessment.

441—176.7(235B) Appropriate evaluation or assessment.

176.7(1) After receipt of the report alleging dependent adult abuse the field worker shall make a preliminary evaluation or assessment to determine whether the information as reported, other known information, and any information gathered as a result of the worker's contact with collateral sources would tend to corroborate the alleged abuse.

176.7(2) When the information gathered in the preliminary evaluation or assessment tends to corroborate, or the worker is uncertain as to whether it repudiates the allegations of the report, the worker shall immediately continue the evaluation or assessment by making a reasonable effort to ensure the safety of the adult. The worker and the worker's supervisor shall determine whether an immediate threat to the physical safety of the adult is believed to exist. If an immediate threat to the physical safety of the adult is believed to exist, the field worker shall make every reasonable effort to examine the adult, as authorized by 176.6(3), within one hour after receipt of the report and shall take any lawful action necessary or advisable for the protection of the adult. When physical safety of the adult is not endangered, the worker shall make every reasonable effort to examine the adult within 24 hours after receipt of the report.

176.7(3) In the event the information gathered in the preliminary evaluation or assessment fails to corroborate the allegation of adult abuse, the worker, with approval of the supervisor, may terminate the evaluation or assessment and submit the "four-day report" required by subrule 176.6(5).

441—176.8(235B) Immunity from liability for reporters. A person participating in good faith in making a report or cooperating or assisting the department in evaluating or assessing a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participation in good faith in a judicial proceeding resulting from the report or assistance or relating to the subject matter of the report or assistance.

441—176.9(235B) Registry records. Central registry records shall be kept in the name of the dependent adult and cross-referenced in the name of the caretaker.

441—176.10(235B) Adult abuse information disseminated.

176.10(1) Requests for information. Written requests for adult abuse information by the subject of a report as defined in subrule 176.10(3), paragraph “a,” may be submitted to the county office of the department on Form 470-0612, Request for Dependent Adult Abuse Registry Information.

Oral requests for dependent adult abuse information may be made to the county office or the central registry when the person making the request believes that the information is needed immediately and the person is authorized to access the information, pursuant to the requirements of Iowa Code section 235B.7, subsection 2. If a request is made orally by telephone, a written request shall be filed within 72 hours of the oral request using Form 470-0612, Request for Dependent Adult Abuse Registry Information. When an oral request to the county office to obtain dependent adult abuse information is granted by the central registry, the county shall document the approval to the central registry through use of Form 470-0612.

All other requests for information shall be made to the central registry by mail or fax pursuant to the requirements of Iowa Code section 235B.7.

176.10(2) Verification of identity. The county office shall verify the identity of the person making the request on Form 470-0612, Request for Dependent Adult Abuse Registry Information. Upon verification of the identity of the person making the request, the county office shall transmit the request to the central registry. The central registry shall verify the identity of persons making requests for information directly to the central registry by telephone, mail, fax, or in person, on Form 470-0612, Request for Dependent Adult Abuse Registry Information.

176.10(3) Approval of requests. Access to dependent adult abuse information other than unfounded adult abuse information is authorized only to the following persons or entities:

- a. Subjects of a report as follows:
 - (1) A dependent adult named in a report as a victim of abuse or the adult’s attorney.
 - (2) A person or the attorney for the person named in a report as having abused a dependent adult.
 - (3) A legal guardian, or the attorney for the guardian, of a dependent adult named in a report as a victim of abuse.
- b. Persons involved in an evaluation or assessment of dependent adult abuse as follows:
 - (1) A health practitioner or mental health professional who is examining, attending, or treating a dependent adult whom the practitioner or professional believes or has reason to believe has been the victim of abuse or a health practitioner or mental health professional whose consultation with respect to the adult believed to have been the victim of abuse is requested by the department.
 - (2) An employee of the department of human services or department of inspections and appeals responsible for the evaluation or assessment of an adult abuse report or for the purpose of performing record checks as required under Iowa Code section 135C.33.
 - (3) A law enforcement officer responsible for assisting in an evaluation or assessment of a dependent adult abuse report.
 - (4) A multidisciplinary team, if the department of human services approves the composition of the multidisciplinary team and determines that access to the team is necessary to assist the department in the evaluation, diagnosis, assessment, and disposition of a dependent adult abuse case.
 - (5) In an individual case, to the mandatory reporter who reported the dependent adult abuse.
 - (6) An agency approved by the department to conduct an assessment.
 - (7) Each board of examiners specified under Iowa Code chapter 147 and the Iowa department of public health for the purpose of licensure, certification or registration, disciplinary investigation, or the renewal of licensure, certification or registration, or disciplinary proceedings of health care professionals.

c. Individuals, agencies, or facilities providing care to a dependent adult as follows:

(1) An authorized person or agency responsible for the care or supervision of a dependent adult named in a report as a victim of abuse or a person named in a report as having abused a dependent adult, if the district court or registry deems access to dependent adult abuse information by the person or agency to be necessary.

(2) A department of human services employee when it is necessary in the performance of the employee's duty.

(3) A licensing authority for a facility providing care to an adult named in a report.

(4) An employee or agent of the department responsible for registering or licensing or approving the registration or licensing of a person, or to a person regulated by the department providing care to an adult.

(5) To an administrator of an agency certified by the department to provide services under a Medicaid home- and community-based services waiver, for the purpose of hiring staff or continued employment of staff.

(6) To an administrator of an agency providing mental health, mental retardation, or developmental disability services under a county management plan developed pursuant to Iowa Code section 331.439, if the information concerns a person employed by or being considered by the agency for employment.

(7) The administrator of a hospital licensed under Iowa Code chapter 135B, when the information concerns a person employed or being considered for employment by the hospital.

(8) The long-term care resident advocate, if the victim resides in a long-term care facility or the alleged perpetrator is an employee of a long-term care facility.

d. Relating to judicial and administrative proceedings as follows:

(1) A district court involved in an adjudication or disposition of a dependent adult named in a report.

(2) A district court upon a finding that information is necessary for the resolution of an issue arising in any phase of a case involving dependent adult abuse.

(3) A court or administrative agency hearing an appeal for correction of dependent adult abuse information as provided in Iowa Code chapter 235B.

(4) An expert witness at any stage of an appeal necessary for correction of dependent adult abuse information as provided in Iowa Code chapter 235B.

e. Others as follows:

(1) A person conducting bona fide research on dependent adult abuse, but without information identifying persons named in an adult abuse report, unless having that information open to review is essential to the research or evaluation and the authorized registry officials give prior written approval and the dependent adult, the adult's guardian and the person named in a report as having abused the dependent adult give permission to release the information.

(2) Registry or department personnel when necessary to the performance of their official duties or a person or agency under contract with the department to carry out official duties and functions of the registry.

(3) The department of public safety for the sole purpose of the filing of a claim for reparation pursuant to Iowa Code section 910A.5A.

(4) A legally constituted dependent adult abuse protection agency of another state which is investigating or treating a dependent adult named in a report as having been abused.

(5) The attorney for the department of human services who is responsible for representing the department.

(6) The legally authorized protection and advocacy agency recognized in Iowa Code section 135C.2, if a person identified in the information as a victim or a perpetrator of abuse resides in or receives services from a facility or agency because the person is diagnosed as having a developmental disability or a mental illness.

(7) A health care facility administrator or the administrator's designee, following the appeals process, for the purpose of hiring staff or continued employment of staff.

(8) The administrator of an agency providing care to a dependent adult in another state, for the purpose of performing an employment background check.

(9) The superintendent, or the superintendent's designee, of a school district or the authorities in charge of an accredited nonpublic school for the purposes of a volunteer or employment record check.

(10) The department of inspections and appeals for purposes of record checks of applicants for employment with the department of inspections and appeals.

176.10(4) Requests concerning applicants for employment and employees of health care programs. A health care program making a request for dependent adult abuse information for the purpose of determining employability, as authorized by Iowa Code section 235B.6, subsection 2, paragraph "e," subparagraphs (6) and (7), and section 135C.33, subsection 6, shall request the information directly from the central registry or obtain the information from the Internet electronic information system maintained by the health facilities division of the department of inspections and appeals.

Requests made directly to the central registry shall be made on Form 470-0612, Request for Dependent Adult Abuse Registry Information.

Health care programs requesting dependent adult abuse background checks on employee applicants and employees by use of the Internet electronic information system shall complete Form 470-3767, Non-Redissemination Agreement. The form shall be signed by the administrator of the health care program and be sent to the central registry before receipt of the information from the department. The administrator shall agree not to disseminate dependent adult abuse information obtained through the Internet electronic information system, except as authorized in Iowa Code sections 235B.6 and 235B.8.

176.10(5) Dissemination of undetermined reports. Rescinded IAB 8/6/03, effective 7/10/03.

176.10(6) Access to unfounded dependent adult abuse information. Access to unfounded dependent adult abuse information is authorized only to:

a. Persons identified as subjects of a report, including the dependent adult named in a report as a victim, a guardian of a dependent adult named in a report as a victim, a person named in a report as having abused a dependent adult, or an attorney representing any of the above;

b. An employee or agency of the department of human services responsible for the evaluation or assessment of a dependent adult abuse report;

c. Registry or department personnel, when necessary to the performance of their official duties, or a person or agency under contract with the department to carry out official duties and functions of the registry;

d. The mandatory reporter who reported dependent adult abuse in an individual case;

e. The long-term care resident advocate, if the victim resides in a long-term care facility or the alleged perpetrator is an employee of a long-term care facility; and

f. A multidisciplinary team, if the department approves the composition of the team and determines that access to the team is necessary to assist in the evaluation, diagnosis, assessment, and disposition of a dependent adult abuse case.

176.10(7) Requests concerning employees of department facilities. When a request is made by the hiring authority of a department operated facility which provides direct client care and the request is made for the purpose of determining continued employability of a person employed, with or without compensation, by the facility, the information shall be requested directly from the central registry. The information requested shall be disseminated to the personnel office of the department. The personnel office shall disseminate the information to the hiring authority for the person involved only upon a finding that the information has a direct bearing on employability of the person involved.

When the personnel office determines that the information has no direct bearing on employability, the hiring authority shall be notified that no job-related dependent adult abuse information is available. If the central registry and local office files contain no information, the hiring authority shall be so informed.

176.10(8) *Dependent adult abuse information disseminated and redisseminated.* Notwithstanding subrule 176.10(1), written requests and oral requests are not required for dependent adult abuse information that is disseminated to an employee of the department of human services, a district court, or the attorney representing the department as authorized by Iowa Code section 235B.6.

176.10(9) *Required notification.* The department shall notify orally the subject of a report of the results of the evaluation or assessment. The department shall subsequently transmit a written notice to the subject which will include information regarding the results, the confidentiality provisions of Iowa Code sections 235B.6 and 235B.12, and the procedures for correction or expungement and appeal of dependent adult abuse information as provided in Iowa Code section 235B.10.

176.10(10) *Mandatory reporter notification.* The department shall attempt to notify orally the mandatory reporter who made the report in a dependent adult abuse case of the results of the evaluation or assessment and of the confidentiality provisions of Iowa Code sections 235B.6 and 235B.12. The department shall subsequently transmit a written notice on Form 470-2444, Adult Protective Notification, to the mandatory reporter who made the report. The form shall include information regarding the results of the evaluation or assessment and confidentiality provisions. A copy of the written notice shall be transmitted to the registry and shall be maintained by the registry as provided in Iowa Code section 235B.8.

176.10(11) *Subjects informed of abuse history.* The department may inform a subject of a dependent adult abuse report of a person's abuse history if the department determines at any time that disclosure is necessary for the protection of the dependent adult. A subject may be informed that a person is listed on the child or dependent adult abuse registry as having a founded abuse report or is listed on the sex offender registry.

441—176.11(235B) *Person conducting research.* The person in charge of the central registry shall be responsible for determining whether a person requesting dependent adult abuse information is conducting bona fide research. To make this determination, the central registry may require these persons to submit credentials and the research design. If the registry determines that identified information is essential to the research design, the registry shall also determine the method by which written permission is to be secured from the dependent adult or guardians of the dependent adult who could be identified by the information to be researched. Any costs incurred in the dissemination of the information shall be assumed by the researcher. The department will keep a public record of persons conducting research.

441—176.12(235B) *Examination of information.* Examination of information contained in the central registry can be made at the site of the central registry between the hours of 8 a.m. and 12 p.m. or 1 p.m. and 4 p.m., Monday through Friday, except state authorized holidays.

The person, or that person's attorney, requesting to examine the information in the registry which refers to that person, shall be allowed to inspect the information after providing appropriate identification.

441—176.13(235B) *Dependent adult abuse information registry.* The department shall create a central abuse registry for dependent adult abuse information. The registry shall collect, maintain, and disseminate dependent adult abuse information as follows:

176.13(1) *Founded reports.* A report of dependent adult abuse determined to be founded shall be retained and sealed by the registry in accordance with Iowa Code section 235B.9.

176.13(2) *Unfounded reports.* A report of dependent adult abuse determined to be unfounded shall be expunged one year from the date it is determined to be unfounded, in accordance with Iowa Code section 235B.9, subsection 2.

176.13(3) *Undetermined reports.* Rescinded IAB 8/6/03, effective 7/10/03.

176.13(4) *Assessments.* Reports involving abuse as a result of the acts or omissions of the dependent adult will be assessments. These reports shall be retained in the dependent adult's case file in the county office. These reports shall not be included in the central registry.

441—176.14(235B) Central registry. Rescinded IAB 10/30/91, effective 1/1/92.

441—176.15(235B) Multidisciplinary teams.

176.15(1) Purpose of multidisciplinary teams. The regional office shall establish multidisciplinary teams for the purpose of assisting the department in assessment, diagnosis, and disposition of reported dependent adult abuse cases. The disposition of a case may include the provision for treatment recommendations and services.

176.15(2) Execution of team agreement. When the team is established the regional administrator or designee and all team members shall execute an agreement on Form 470-2328, Dependent Adult Abuse Multidisciplinary Team Agreement. This agreement specifies:

a. That the team shall be consulted solely for the purpose of assisting the department in the assessment, diagnosis and treatment of dependent adult abuse cases.

b. That any team member may cause a dependent adult abuse case to be reviewed if approved by the department through use of the process of requesting adult abuse information specified in rule 176.10(235B).

c. That no team members shall disseminate adult abuse information obtained solely through the multidisciplinary team. This shall not preclude dissemination of information as authorized by Iowa Code section 235B.6 when an individual team member has received information as a result of another authorized access provision of the Code.

d. That the department may consider the recommendation of the team in a specific dependent adult abuse case but shall not, in any way, be bound by the recommendations.

e. That any written report or document produced by the team pertaining to an individual case shall be made a part of the file for the case and shall be subject to all confidentiality provisions of Iowa Code sections 235B.6 and 235B.8 and of 441—Chapter 176.

f. That any written records maintained by the team which identify an individual dependent adult abuse case shall be destroyed when the agreement lapses.

g. That consultation team members shall serve without compensation.

h. That any party to the contract may withdraw with or without cause upon the giving of 30 days' notice.

i. The date on which the agreement will expire.

176.15(3) Filing of agreement. Whenever a team is created, a copy of the executed contract shall be filed with the central registry in addition to any other requirement placed upon execution of agreements by the department.

441—176.16(235B) Medical and mental health examinations. In any year in which the legislature appropriates funds, the department shall administer a payment program for mental health or medical health examinations for subjects of dependent adult abuse reports.

176.16(1) Conditions for payment. The following conditions must be met before payment can be made:

a. Local resources to pay these costs must be exhausted.

b. The examination must be scheduled during the evaluation or assessment process.

c. Department staff must be involved in the decision to request the examination.

176.16(2) Payment limits. Payment for mental health examinations shall not exceed \$250. Payment for a complete medical examination shall not exceed \$160.

176.16(3) Billing procedures. Claims for payment shall be submitted to the division of behavioral, developmental, and protective services on Form GAX, General Accounting Expenditure, accompanied by a letter from department staff certifying that the necessary conditions for payment have been met.

441—176.17(235B) Request for correction or expungement. The department of human services is responsible for correction or expungement of reports prepared by department staff. The department of inspections and appeals is responsible for correction or expungement of reports prepared by that department's staff and that determination shall be binding on the registry.

176.17(1) Within six months of the date of the notice of evaluation results, a person may file with the registry a written statement to the effect that the dependent adult abuse information referring to the person is partially or entirely erroneous. The person may also request a correction of that information or of the findings of the report. The registry will record all requests and immediately forward the requests to the division of health facilities, department of inspections and appeals, when the reports were prepared by the department of inspections and appeals. The registry will notify the person requesting a correction that the report has been sent to the department of inspections and appeals.

176.17(2) Unless the designated department corrects the information or findings as requested, the designated department shall provide the person with an opportunity for a hearing as provided by 441—Chapter 7 to correct the information or the findings. The department may defer the hearing until the conclusion of a pending district court case relating to the information or findings.

These rules are intended to implement Iowa Code chapter 235B as amended by 2003 Iowa Acts, Senate File 416 and House File 558.

- [Filed 3/27/78, Notice 2/8/78—published 4/19/78, effective 5/24/78]
- [Filed 6/30/81, Notice 4/1/81—published 7/22/81, effective 8/26/81]
- [Filed 11/5/82, Notice 8/18/82—published 11/24/82, effective 1/1/83]
- [Filed emergency 6/17/83—published 7/6/83, effective 7/1/83]
- [Filed emergency 2/10/84—published 2/29/84, effective 2/10/84]
- [Filed emergency 6/15/84—published 7/4/84, effective 7/1/84]
- [Filed emergency 6/14/85—published 7/3/85, effective 7/1/85]
- [Filed 8/23/85, Notice 7/3/85—published 9/11/85, effective 11/1/85]
- [Filed 1/22/86, Notice 11/20/85—published 2/12/86, effective 4/1/86]
- [Filed emergency 1/15/87—published 2/11/87, effective 1/15/87]
- [Filed emergency 6/19/87—published 7/15/87, effective 7/1/87]
- [Filed 8/28/87, Notice 7/15/87—published 9/23/87, effective 11/1/87]
- [Filed 10/23/87, Notice 9/9/87—published 11/18/87, effective 1/1/88]
- [Filed 9/2/88, Notice 6/29/88—published 9/21/88, effective 11/1/88]
- [Filed emergency 10/27/88 after Notice of 9/7/88—published 11/16/88, effective 11/1/88]
- [Filed 4/13/89, Notice 3/8/89—published 5/3/89, effective 7/1/89]
- [Filed 11/14/90, Notice 9/19/90—published 12/12/90, effective 2/1/91]
- [Filed 6/14/91, Notice 5/1/91—published 7/10/91, effective 9/1/91]
- [Filed 10/10/91, Notice 9/4/91—published 10/30/91, effective 1/1/92]
- [Filed 10/15/92, Notice 8/19/92—published 11/11/92, effective 1/1/93]
- [Filed 10/14/93, Notice 8/18/93—published 11/10/93, effective 1/1/94]
- [Filed 11/16/95, Notice 9/27/95—published 12/6/95, effective 2/1/96]
- [Filed 10/9/96, Notice 8/14/96—published 11/6/96, effective 1/1/97]
- [Filed 7/15/99, Notice 6/2/99—published 8/11/99, effective 10/1/99]
- [Filed 11/8/00, Notice 10/4/00—published 11/29/00, effective 1/3/01]
- [Filed 6/13/01, Notice 4/18/01—published 7/11/01, effective 9/1/01]
- [Filed 9/11/01, Notice 7/11/01—published 10/3/01, effective 12/1/01]
- [Filed emergency 7/11/02—published 8/7/02, effective 7/11/02]
- [Filed emergency 7/10/03—published 8/6/03, effective 7/10/03]
- [Filed 10/10/03, Notice 8/6/03—published 10/29/03, effective 1/1/04]
- [Filed emergency 4/15/05 after Notice 3/2/05—published 5/11/05, effective 5/1/05]