

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 either:

1. Any of the following as a result of the willful or negligent acts or omissions of a caretaker:
 - Physical injury to, or injury which is at variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult.
 - The commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2 with or against a dependent adult.
 - Exploitation of a dependent adult, which means the act or process of taking unfair advantage of a dependent adult or the adult’s physical or financial resources, without the informed consent of the dependent adult, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.
 - The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult’s life or health.
 - Sexual exploitation of a dependent adult by a caretaker. “Sexual exploitation” means any consensual or nonconsensual sexual contact with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in Iowa Code section 702.17. “Sexual exploitation” includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing assessment, evaluation or investigation. “Sexual exploitation” does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.
 - Personal degradation of a dependent adult, which means a willful act or statement by a caretaker intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a dependent adult, or where the caretaker knew or reasonably should have known the act or statement would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person.
2. The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult’s life or health as a result of the acts or omissions of the dependent adult.

“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.

“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.

“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 section 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.

[ARC 8099B, IAB 9/9/09, effective 8/13/09; ARC 9258B, IAB 12/1/10, effective 2/1/11; ARC 5142C, IAB 8/12/20, effective 10/1/20]

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; personal degradation; and deprivation by another person of food, shelter, clothing, supervision, physical and mental health care and other care necessary to maintain life or health.

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.

176.3(4) Confirmed, not registered. Reports of physical abuse, denial of critical care by a caretaker, or personal degradation that would otherwise be founded reports shall be considered confirmed, not registered reports if the abuse is determined to be minor, isolated, and unlikely to reoccur. These reports shall be assessments and shall not be included on the central abuse registry. The assessment shall be maintained in the local office as directed in subrule 176.13(4).
[ARC 5142C, IAB 8/12/20, effective 10/1/20]

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 a form prescribed by the department or may use a form developed by the reporter that meets the requirements of Iowa Code section 235B.3.

[ARC 4393C, IAB 4/10/19, effective 6/1/19]

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) Completion of evaluation or assessment report. Upon completion of its evaluation or assessment, the department shall complete a report that describes its findings and includes all actions taken or contemplated.

a. The department shall complete its report within 20 working days of the receipt of the abuse allegations, unless the worker's supervisor grants an extension of time for good cause shown. The worker's supervisor may grant an extension for a maximum of 30 working days. No more than three extensions shall be granted.

b. Upon completion of an evaluation, the department shall enter its report into the dependent adult reporting and evaluation system (DARES).

c. Upon completion of an assessment when the alleged abuse is the result of the acts or omissions of the dependent adult, the department shall place the report in the case file of the dependent adult and enter the information into DARES.

176.6(6) Report to county attorney. The department shall transmit a copy of the report of its evaluation or assessment to the appropriate county attorney. The county attorney shall notify the local 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.

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.

176.6(13) Referrals to other agencies. During an assessment or evaluation of suspected abuse of a dependent adult, the department shall:

a. Make a referral to the division of labor services of the department of workforce development if an issue is discovered that concerns wages, workplace safety, or labor and employment matters under the jurisdiction of that agency.

b. Make a referral to the civil rights commission if an issue is discovered that involves discrimination under the jurisdiction of that agency.

176.6(14) Assessment of dependency and risk. After the first visit to a dependent adult who is alleged to be abused, the department shall complete an assessment of the adult using a form prescribed by the department. The department shall assess:

a. The adult's dependency,

b. The risk to the adult's health or safety, and

c. The areas in which the adult is either dependent or independent.

176.6(15) Follow-up for at-risk adults. When it has not been possible or necessary to obtain a court order for services to an at-risk adult, the department shall attempt to empower the at-risk adult to agree to accept services and to participate in preparing a safety plan. If the adult refuses to sign a safety plan for an at-risk adult and to accept recommended services, the department shall provide periodic visits.

a. *Purpose.* The purpose of the visits shall be to:

(1) Assess the adult for increased risk or impairment,

(2) Monitor the adult's situation to determine the feasibility of intervening with protective services, and

(3) Empower the adult to accept recommended services and to engage in safety planning.

b. *Exemption.* If it has been determined there is a physical threat to the safety of the department employee who is attempting to visit an at-risk adult, the department shall not attempt a periodic visit unless the physical threat to safety has been removed.

c. *Criteria to continue visits.* Periodic visits shall continue if:

(1) The adult's health or safety has deteriorated somewhat but not to the point that a court order is necessary; or

(2) The adult's health or safety has remained the same and there is a possibility the adult may in the future agree to services and to participating in preparing a safety plan.

d. Criteria to end visits. Periodic visits shall be terminated when:

(1) The adult agrees to services and services are arranged; or

(2) The adult's health or safety has deteriorated to the point that the department has requested court action pursuant to subrule 176.6(8); or

(3) The adult's health or safety has not changed six months after the initial report of alleged abuse; there appears no possibility the adult will ever agree to services; and the adult is competent to make decisions.

[ARC 9258B, IAB 12/1/10, effective 2/1/11; ARC 4393C, IAB 4/10/19, effective 6/1/19]

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 an 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 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.

a. 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.

b. 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 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 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 the department-prescribed form entitled Request for Child and Dependent Adult Abuse 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 on the department-prescribed form entitled Request for Child and Dependent Adult Abuse 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 on the department-prescribed form entitled Request for Child and Dependent Adult Abuse Information.

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 the department-prescribed form entitled Request for Child and Dependent Adult Abuse 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 the department-prescribed form entitled Request for Child and Dependent Adult Abuse Information.

176.10(3) *Approval of requests.* The department shall grant access to dependent adult abuse information as authorized by Iowa Code section 235B.6. Upon approval of any request for dependent adult abuse information authorized by this rule, the department may withhold the name of the person who made the report of dependent adult abuse when the department finds that the disclosure of the person's identity would be detrimental to the person's interest.

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 the department-prescribed form entitled Request for Child and Dependent Adult Abuse 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 the department-prescribed form entitled Access to Confidential Abuse Information and 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 retransmit 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 redisseminate 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 adult protective notification on a form prescribed by the department to each 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.

[ARC 2427C, IAB 3/2/16, effective 5/1/16; ARC 4393C, IAB 4/10/19, effective 6/1/19]

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 five years from the date it is determined to be unfounded, in accordance with Iowa Code section 235B.9, subsection 2, as amended by 2009 Iowa Acts, Senate File 484.

176.13(3) *Rejected intakes.* Reports that are found not to meet the criteria to be accepted for evaluation or assessment of abuse shall be kept in the local office for three years from the date the report of abuse was determined to be rejected.

176.13(4) *Assessments.* Reports classified as assessments shall not be included in the central registry but shall be maintained in the local office. The central registry shall be notified of the disposition of the assessment report.

a. Self-denial of critical care. 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 local office for five years and then destroyed.

b. Confirmed, not registered. Reports of dependent adult abuse where physical abuse or denial of critical care committed by a caretaker is confirmed but is determined to be minor, isolated, and unlikely to reoccur shall be assessments. These reports shall be maintained in the local office for five years and then destroyed unless a subsequent report of dependent adult abuse on the same caretaker is founded. If a subsequent report on the same caretaker is founded within the five-year period, the confirmed, not registered report shall be maintained in the local office for ten years from the date of the subsequent report and then sealed.

[ARC 8099B, IAB 9/9/09, effective 8/13/09]

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 service area 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 service area manager or designee and all team members shall execute an agreement on a form prescribed by the department. The multidisciplinary team agreement shall specify:

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 441—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.

[ARC 4393C, IAB 4/10/19, effective 6/1/19]

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.

[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]
 [Filed emergency 6/17/05—published 7/6/05, effective 7/1/05]
 [Filed 6/17/05, Notice 4/13/05—published 7/6/05, effective 9/1/05]
[Filed 11/16/05, Notices 7/6/05, 8/17/05—published 12/7/05, effective 1/11/06]
 [Filed 12/13/06, Notice 9/27/06—published 1/3/07, effective 3/1/07]
 [Filed 7/12/07, Notice 5/9/07—published 8/1/07, effective 9/5/07]
 [Filed without Notice 11/14/07—published 12/5/07, effective 1/9/08]
 [Filed Emergency ARC 8099B, IAB 9/9/09, effective 8/13/09]
[Filed ARC 9258B (Notice ARC 9027B, IAB 8/25/10), IAB 12/1/10, effective 2/1/11]
 [Filed ARC 2427C (Notice ARC 2351C, IAB 1/6/16), IAB 3/2/16, effective 5/1/16]
[Filed ARC 4393C (Notice ARC 4239C, IAB 1/16/19), IAB 4/10/19, effective 6/1/19]
[Filed ARC 5142C (Notice ARC 4911C, IAB 2/12/20), IAB 8/12/20, effective 10/1/20]