

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to personal degradation

The Human Services Department hereby amends Chapter 176, “Dependent Adult Abuse,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 235B.

Purpose and Summary

Two pieces of legislation recently passed which resulted in these rule changes. 2019 Iowa Acts, House File 569, added personal degradation as a category of dependent adult abuse. 2019 Iowa Acts, House File 323, changed the definition of exploitation within the definition of dependent adult abuse. The proposed amendments update the definition of exploitation, define personal degradation within the definition of adult abuse, and set criteria for outcome determinations for dependent adult abuse evaluations conducted by the Department to include references to personal degradation.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 12, 2020, as **ARC 4911C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on July 8, 2020.

Fiscal Impact

Both legislative changes will result in Department computer system updates, and the new category of abuse will increase case counts and result in the need for additional Department staff.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on October 1, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule **441—176.1(235B)**, definition of “Adult abuse,” as follows:

“*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 ~~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.
 - 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.

ITEM 2. Amend subrule 176.3(1) as follows:

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.

ITEM 3. Amend subrule 176.3(4) as follows:

176.3(4) Confirmed, not registered. Reports of physical abuse, ~~or~~ 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).

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/12/20.