

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

**Proposing rule making related to five-year review of rules  
and providing an opportunity for public comment**

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

*Legal Authority for Rule Making*

This rule making is proposed 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*

Chapter 176 was reviewed as part of the Department’s five-year rules review. Definitions are proposed to be updated to align with the Iowa Code and to provide consistency. The word “dependent” is proposed to be added to “adult abuse” to ensure dependent adult abuse is correctly identified. The proposed amendments clarify the relationships of all parties involved in the assessment process.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*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).

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 14, 2023. Comments should be directed to:

Nancy Freudenberg  
Department of Human Services  
Hoover State Office Building, Fifth Floor  
1305 East Walnut Street  
Des Moines, Iowa 50319-0114  
Email: [appeals@dhs.state.ia.us](mailto:appeals@dhs.state.ia.us)

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*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).

The following rule-making actions are proposed:

ITEM 1. Amend rule **441—176.1(235B)**, definitions of “Adult abuse,” “Expungement,” “Informed consent,” “Multidisciplinary team,” “Preponderance of evidence” and “Registry,” as follows:

*“~~Adult~~ Dependent 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.
2. 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, or taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing assessment, evaluation or investigation. “Sexual exploitation” does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.
3. 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.
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 as a result of the acts or omissions of the dependent adult.

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

*“Informed consent,” (as used in Iowa Code section 235B.2(5) “e”) as used in the description of exploitation in Iowa Code section 235B.2(5), 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.*

*“Multidisciplinary team” shall mean means 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.

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

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

ITEM 2. Adopt the following new definitions of “Assessment information” and “Confidential information” in rule **441—176.1(235B)**:

“*Assessment information*” means material and data maintained by the department in a manual or automated data storage system concerning the report, assessment or evaluation, or disposition of dependent adult abuse.

“*Confidential information*” means any information restricted by Iowa Code chapter 22, 217, 235B, 229, or 125; 45 CFR 160, 162 and 164 as of January 1, 2023; or any other provision in state or federal law that prohibits disclosure of information.

ITEM 3. Rescind the definition of “Confidentiality” in rule **441—176.1(235B)**.

ITEM 4. Amend rule 441—176.2(235B) as follows:

**441—176.2(235B) Denial of critical care.** The failure, by acts or omissions, 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.

ITEM 5. Amend rule 441—176.3(235B) as follows:

**441—176.3(235B) Appropriate evaluation.** ~~Immediately upon~~ Upon receipt of a dependent adult abuse report, the ~~worker~~ department shall conduct an intake sufficient to determine whether the allegation meets criteria and constitutes a report of dependent adult abuse as defined in Iowa Code section 235B.2.

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

- a. ~~The~~ There is a reasonable belief the person is a dependent adult.
- b. ~~Dependent adult abuse exists~~ as defined in Iowa Code section 235B.2 is suspected.
- c. The alleged person responsible is:

(1) ~~A caretaker exists in reports of physical injury to or, assault, 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 or mental health care and other care necessary to maintain life or health.~~

(2) The dependent adult in reports of deprivation of food, shelter, clothing, supervision, physical or mental health care and other care necessary to maintain life or health due to the adult’s own acts or omissions pursuant to Iowa Code section 235B.2(5) “a”(2).

**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, when the allegation pertains to correctional staff as caretakers.

**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~~ assessment information 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).~~ Access to confirmed, not registered reports will be authorized pursuant to Iowa Code section 235B.6(3).

ITEM 6. Amend rule 441—176.4(235B) as follows:

**441—176.4(235B) Reporters.** ~~The~~ As a function of the central registry and county office, centralized intake shall accept take reports from mandatory reporters or any other person who believes dependent adult abuse has occurred.

**176.4(1)** Mandatory reporters shall:

~~a. Report~~ 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 Form 470-2441 or~~ a form developed by the reporter that meets the requirements of Iowa Code section 235B.3.

ITEM 7. Amend rule 441—176.5(235B) as follows:

**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~~ will be asked to also make an oral report to an appropriate law enforcement agency.

**176.5(3)** The department ~~of human services~~ shall: provide electronic access to all reports alleging dependent adult abuse to the appropriate county attorney.

~~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~~ may 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 dependent adult abuse, including evidence of previous dependent adult abuse. The existence of alleged dependent adult abuse is the second criterion to be considered before beginning an evaluation.

*f.* Information concerning ~~the~~ suspected dependent 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~~ will be received whether or not it contains all of the information requested in subrule 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.

ITEM 8. Amend rule 441—176.6(235B) as follows:

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

**176.6(1)** When a report is received; and meets the criteria pursuant to Iowa Code section 235B.2(5)“a,” 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 dependent adult abuse in a health care facility pursuant to Iowa Code chapter 235E, 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 dependent 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 dependent 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 dependent adult abuse, if any, to the dependent adult named in the report.

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

*c.* A determination of whether other dependent adults in the same residence have been subjected to dependent 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)~~ **176.6(4)** 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 business 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 business days. No more than three extensions shall be granted.

b. Upon completion of an assessment or 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)~~ **176.6(5)** Report to county attorney. The department shall ~~transmit a copy of the report of~~ provide electronic access to the complete 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)~~ **176.6(6)** 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)~~ **176.6(7)** Notification of licensing authority. Based on information discovered during an evaluation of dependent adult abuse in a program providing care to a dependent adult as authorized pursuant to Iowa Code section 235B.6(2) "c" and for the purpose of assuring safety and mitigating risk to dependent adults, 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)~~ **176.6(8)** Assessments Services by other agencies. The department may approve agencies considered capable and appropriate to complete assessments of provide services during the course of an assessment or evaluation to dependent adults who are suspected of being abused or neglected.

a. The department may make a referral to an approved agency to complete an assessment of provide services to a dependent adult who is suspected of being abused or neglected, in conjunction with a department abuse evaluation or assessment on the dependent adult.

b. The department may use information obtained ~~from the assessment completed~~ during services provided 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)~~ **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)~~ **176.6(9)** Assessment of dependency and risk. ~~After the first visit to a dependent adult who is alleged to be abused~~ During a dependent adult abuse assessment or evaluation, the department shall complete an assessment of the adult using a form prescribed by the department pursuant to Iowa Code section 235B.16A(2). 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)~~ **176.6(10)** 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 at the conclusion of the assessment or evaluation. Periodic visits will be conducted with the at-risk adult. The department has no authority to share information or obtain information with any other individuals during the course of periodic visits. Periodic visits should not be used as a means to continue gathering assessment or evaluation information.

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;<sup>2</sup> there appears no possibility the adult will ever agree to services;<sup>2</sup> and the adult ~~is competent~~ has the capacity to make decisions.

ITEM 9. Amend rule 441—176.7(235B) as follows:

**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).~~

176.7(1) After receipt of a report alleging dependent adult abuse which meets criteria as outlined in subrule 176.3(1), a dependent adult abuse evaluation or assessment will be initiated and will be assigned to an adult protection worker. The adult protection worker will make an effort to observe and examine the dependent adult as authorized by subrule 176.6(3) and evaluate the dependent adult's safety.

a. For cases where there is information that the alleged perpetrator has access to the adult subject, reasonable efforts shall be made to observe the adult subject and evaluate the adult subject's safety within 24 hours of commencing the assessment of the report alleging dependent adult abuse.

b. For cases where there is information that the alleged perpetrator clearly has no access to the adult subject, or for cases where services are in place to mitigate any safety concerns, reasonable efforts shall be made to observe the adult subject and evaluate the adult subject's safety within 72 hours of commencing the assessment of the report alleging dependent adult abuse.

c. When reasonable efforts have been made to observe the adult subject within the specified time frames and the worker has established that there is no need to observe and no risk to the adult subject, the observation of the adult subject may be delayed or waived with supervisory approval.

176.7(2) After receipt of the report alleging dependent adult abuse, the adult protection worker shall conduct 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 or other collateral contacts would tend to corroborate the alleged abuse.

176.7(3) In the event the information gathered in the evaluation or assessment fails to corroborate the allegation of dependent adult abuse as defined in Iowa Code section 235B.2(5) "a," the worker, with approval of the supervisor, may terminate the evaluation or assessment and submit the report.

ITEM 10. Rescind rule **441—176.8(235B)**.

ITEM 11. Renumber rules **441—176.9(235B)** to **441—176.13(235B)** as **441—176.8(235B)** to **441—176.12(235B)**.

ITEM 12. Amend renumbered rule 441—176.8(235B) as follows:

**441—176.8(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~~ alleged person responsible (if applicable).

ITEM 13. Amend renumbered rule 441—176.9(235B) as follows:

**441—176.9(235B) Adult Dependent adult abuse information disseminated.**

**176.9(1) Requests for information.** Written requests for dependent 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 Form 470-0643~~ or 470-2444.

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~~ 235B.7(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 Form 470-0643~~. 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 Form 470-0643~~.

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.

**176.9(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 Form 470-0643~~. 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, or fax, or in person, on the department-prescribed form entitled ~~Request for Child and Dependent Adult Abuse Information Form 470-0643~~.

**176.9(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~~ pursuant to Iowa Code section 22.7(18).

**176.9(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), 235B.6(2) “e” (6) and (7) and section 135C.33, subsection 6~~ 135C.33(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~~ single contact repository (SING).

Requests made directly to the central registry shall be made on the department-prescribed form entitled ~~Request for Child and Dependent Adult Abuse Information Form 470-0643~~.

Health care programs requesting dependent adult abuse background checks on employee applicants and employees by use of the ~~Internet electronic information system SING~~ shall complete the department-prescribed form entitled ~~Access to Confidential Abuse Information and Non-Redissemination Agreement. The form Form 470-3767. Form 470-3767~~ 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 redisseminate dependent adult abuse information obtained through the ~~Internet electronic information system SING~~, except as authorized in Iowa Code sections 235B.6 and 235B.8.

~~176.9(5) Dissemination of undetermined reports. Rescinded IAB 8/6/03, effective 7/10/03.~~

~~176.9(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.~~

~~176.9(7) 176.9(5) 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.~~

~~176.9(8) 176.9(6) Dependent adult abuse information disseminated and redisseminated. Notwithstanding subrule 176.10(1) requests pursuant to Iowa Code section 235B.7, 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, or the office of the attorney general.~~

~~176.9(9) 176.9(7) Required notification. The department shall will make a reasonable attempt to notify orally the subject of a report of the results of the evaluation or assessment dependent adult abuse subjects as described in Iowa Code section 235B.6(2) "a" of the outcome of the dependent adult abuse assessment or evaluation. The department shall subsequently transmit send a written notice to the subject report subjects 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.~~

~~176.9(10) 176.9(8) 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.~~

~~176.9(11)~~ **176.9(9)** *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.

ITEM 14. Amend renumbered rule 441—176.11(235B) as follows:

**441—176.11(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 Pursuant to Iowa Code section 235B.10, any 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. 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 noon or 1 p.m. and 4 p.m., Monday through Friday, except state authorized holidays.

ITEM 15. Amend renumbered rule 441—176.12(235B) as follows:

**441—176.12(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:

**176.12(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.

**176.12(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~~ 235B.9(2).

**176.12(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~~ dependent adult reporting and evaluation system (DARES) for three years from the date the report of abuse was determined to be rejected.

**176.12(4) *Assessments.*** Reports classified as assessments shall not be included in the central registry but shall be maintained in the ~~local office~~ DARES. 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~~ DARES for five years and then destroyed.

*b. Confirmed, not registered.* Reports of dependent adult abuse where physical abuse ~~or~~, assault, unreasonable confinement, unreasonable punishment, denial of critical care, or personal degradation 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~~ DARES 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~~ DARES for ten years from the date of the subsequent report and then sealed.

ITEM 16. Renumber rule ~~441—176.15(235B)~~ as **441—176.13(235B)**.

ITEM 17. Amend renumbered rule 441—176.13(235B) as follows:

**441—176.13(235B) Multidisciplinary teams.**

**176.13(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.

**176.13(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 dependent adult abuse information specified in rule 441—176.10(235B) 441—176.9(235B).

*c.* That no team members shall disseminate dependent 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 Iowa 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.

**176.13(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.

ITEM 18. Rescind rule 441—176.16(235B).

ITEM 19. Renumber rule 441—176.17(235B) as 441—176.14(235B).

ITEM 20. Amend renumbered rule 441—176.14(235B) as follows:

**441—176.14(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.

~~176.14(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~~ When a request for correction or expungement pursuant to Iowa Code section 235B.10 is received, the central registry will record all requests and immediately promptly 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.

**176.14(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.