RA 26-193

HUMAN SERVICES DEPARTMENT[441]

Regulatory Analysis

Notice of Intended Action to be published: 441—Chapter 176
"Dependent Adult Abuse"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 235B
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 235B

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

August 25, 2026 10 a.m.	Microsoft Teams Meeting ID: 263 183 115 478 438 Passcode: RG9AC95E

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

This proposed chapter was reviewed under Executive Order 10. As a result, duplicative terms were removed, restrictive terms were reduced, and the rules were streamlined and updated to reflect current practices. This proposed chapter outlines the ways that dependent adult abuse reports can be received, describes the investigative process, and sets forth rules for responding to an allegation of dependent adult abuse.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs associated with this proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

Dependent adults and their caregivers will benefit from streamlined rules that set forth the rights and responsibilities of those involved regarding a report of dependent adult abuse.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

The review of this proposed chapter did not result in any quantitative changes to the protections and rights afforded to those involved in potential dependent adult abuse responses.

- **Qualitative description of impact:**

The review of this proposed chapter further clarified the definition of "denial of critical care," updated language to be in line with the Department's background check policy, and aligned terminology so that it is consistent with current practices.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department incurs personnel and other administrative costs associated with enforcement of this proposed chapter.

- **Anticipated effect on State revenues:**

This proposed rulemaking is not expected to have any impact on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Not applicable.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Rulemaking for dependent adult abuse reports and investigations is required by Iowa Code chapter 235B.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This rulemaking will not have an impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 441—Chapter 176 and adopt the following **new** chapter in lieu thereof:

CHAPTER 176
DEPENDENT ADULT ABUSE

441—176.1(235B) Definitions.

"Assault" means the same as defined in Iowa Code section 708.1.

"At-risk adult" means a dependent adult whose personal health or safety is at risk due to impairments, the environment, a substance use disorder, a lack of services or social supports, a refusal to accept services, or other risk factors identified through an assessment.

"Caretaker" means the same as set forth in Iowa Code section 235B.2.

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

"Denial of critical care" exists when the dependent adult's basic needs are denied or ignored to such an extent that there is imminent danger of the dependent adult suffering injury or death.

"Dependent adult" means the same as set forth in Iowa Code section 235B.2.

"Dependent adult abuse" means the same as set forth in Iowa Code section 235B.2.

"Expungement" means the process of permanently deleting electronic and printed materials regarding dependent adult abuse information in compliance with Iowa Code section 235B.9.

"Finding" means the department's determination, following an investigation, of whether dependent adult abuse or self-neglect occurred.

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

"Imminent" means occurring or likely to occur soon.

"Investigation" means the process of examining and gathering information about an allegation of dependent adult abuse to determine if the circumstances of the allegation meet the standards of evidence for a finding.

"Investigative summary" means the written documentation of an investigation that summarizes the information gathered, including all actions taken or contemplated, the analysis of the evidence, and the finding of whether dependent adult abuse or self-neglect occurred.

"Multidisciplinary team" 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.

"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 that results in the death of the person who has sustained the damage, or physical injury that is at variance with the history given of it.

"Registry" means the central registry for dependent adult abuse information established in Iowa Code section 235B.5.

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

441—176.2(235B) Denial of critical care. A finding of denial of critical care shall be made only when the caretaker or dependent adult had the financial ability to obtain the necessary critical care need or when financial or other reasonable means were offered and the caretaker or dependent adult refused or failed to utilize them. It includes the failure, by the act or omission on the part of the caretaker or the dependent adult, to provide minimum food, shelter, clothing, supervision, physical care, mental health care, or other care necessary to maintain the dependent adult's health and welfare when financially able to do so, or when offered financial or other reasonable means to do so.

441—176.3(235B) Appropriate report. Upon receipt of a dependent adult abuse report, the department will 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) Abuse reports. Dependent adult abuse reports will be investigated when all of the following criteria are alleged to be met:

a. There is a reasonable belief the person is a dependent adult.

b. Dependent adult abuse as defined in Iowa Code section 235B.2 is suspected.

c. The alleged person responsible is:

(1) A caretaker in reports of physical injury, assault, unreasonable confinement or cruel punishment of a dependent adult; commission of a sexual offense; exploitation; personal degradation; and deprivation of food, shelter, clothing, supervision, physical 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."*

176.3(2) Nondependent adult abuse situations. In addition to the circumstances established in Iowa Code section 235B.2(5)*"b,"* the following are also not dependent adult abuse situations:

a. A report of domestic abuse under Iowa Code chapter 236 does not in and of itself constitute a report of dependent adult abuse.

b. An allegation pertaining to correctional staff as caretakers when the alleged victim is a person 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) Dependent adult acts or omissions. The investigative summary of dependent adult abuse that is the result of the acts or omissions of the dependent adult will be collected and maintained as set forth in Iowa Code section 235B.3(1)*"b."*

176.3(4) Confirmed, not registered finding. Physical abuse, denial of critical care by a caretaker, or personal degradation investigative summaries that would otherwise be founded will be classified as confirmed, not registered if the abuse is determined to be minor, isolated, and unlikely to reoccur. Such investigative summaries will not be included on the registry. Access to confirmed, not registered dependent adult abuse information will be authorized pursuant to Iowa Code section 235B.6(3).

441—176.4(235B) Reporters. As a function of the registry, the department will take reports from mandatory reporters or any other person who believes dependent adult abuse has occurred.

176.4(1) Mandatory reporters shall report suspected abuse of a dependent adult within 24 hours of becoming aware of an abusive incident.

176.4(2) The reporter may use a department-prescribed form or a form developed by the reporter that meets the requirements of Iowa Code section 235B.3.

441—176.5(235B) Reporting procedure.

176.5(1) Each report made may be orally or in writing to the department.

176.5(2) When the person making the report has reason to believe that immediate protection for the dependent adult is advisable, that person will be asked to also make an oral report to an appropriate law enforcement agency.

176.5(3) The department will provide access to all reports alleging dependent adult abuse to the appropriate county attorney.

176.5(4) The report 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.

d. The dependent adult's age.

e. The nature and extent of the dependent adult abuse, including evidence of previous dependent adult abuse.

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

g. Other information that 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 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, 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 and meets the criteria pursuant to Iowa Code section 235B.2(5)*"a,"* the department will promptly commence an investigation, except that the department of inspections, appeals, and licensing is responsible for the investigation 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 will forward all reports and other information concerning dependent adult abuse in a health care facility to the department of inspections, appeals, and licensing on the first working day following the submission of the report.

176.6(2) The investigative summary will 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 identity of the person or persons responsible for the dependent adult abuse.

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

d. A critical explanation of all other statutory requirements outlined in Iowa Code chapter 235B.

176.6(3) With the consent of the dependent adult or caretaker, investigations may include a visit to the residence of the dependent adult named in the report and an examination of the dependent adult.

a. 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 enter the residence of and to examine the dependent adult.

b. 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 that the department reasonably believes are related to the resources of the dependent adult.

176.6(4) Completion of investigation. Upon completion of the investigation, the department will complete a written investigative summary that describes its findings and includes all actions taken or contemplated.

a. The department will complete its investigative summary within 20 business days of the receipt of the reported abuse allegations unless an extension of time for good cause is granted. The department may grant an extension for a maximum of 30 business days. No more than three extensions will be granted.

b. Upon completion of an investigation, the department will enter its investigative summary into the electronic dependent adult reporting and evaluation system (DARES).

176.6(5) Investigative summary to county attorney. The department will provide access to the investigative summary to the appropriate county attorney.

176.6(6) During the investigation, the department will 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 will 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 will make referrals or may provide necessary protective services to eligible dependent adults, family members, and caretakers.

176.6(7) Notification of licensing authority. Based on information discovered during an investigation 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 will 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 occurs:

a. A violation of program policy noted in the investigation.

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.

176.6(8) Services by other agencies. The department may approve agencies considered capable and appropriate to provide services during the course of an investigation to dependent adults who are suspected of being abused or neglected.

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

b. The department may use information obtained during services provided by the approved agency in the abuse investigation. The department has complete authority in determining the conclusions of the abuse investigation.

176.6(9) Assessment of dependency and risk. During a dependent adult abuse investigation, the department will complete an assessment of the adult pursuant to Iowa Code section 235B.16A(2). The department will 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(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 will attempt to empower the at-risk adult to agree to accept services or to participate in developing a plan to mitigate risk and safety on a form prescribed by the department. If the at-risk adult refuses to develop a plan to mitigate risk and safety or to accept recommended services, the department will provide periodic visits at the conclusion of the investigation. 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 investigation information.

a. Purpose. The purpose of the periodic visits will be to:

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

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

(3) Empower the at-risk adult to accept recommended services or to engage in developing a plan to mitigate risk and safety.

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 will not attempt a periodic visit unless the physical threat to safety has been removed.

c. Considerations to continue periodic visits from one month to the next. Periodic visits will continue if:

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

(2) The at-risk adult's health or safety has remained the same and there is a possibility the at-risk adult may in the future agree to services or participate in developing a plan to mitigate risk and safety.

d. Criteria to end periodic visits. Periodic visits will be terminated when:

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

(2) The at-risk adult agrees to the development of a plan to mitigate risk and safety; or

(3) The at-risk adult's health or safety has deteriorated to the point that the department has requested court action; or

(4) A new allegation of abuse is accepted; or

(5) The at-risk adult's health or safety has not changed for three months after the conclusion of the investigation and there appears no possibility the adult will ever agree to services.

441—176.7(235B) Investigation.

176.7(1) After receipt of a report alleging dependent adult abuse that meets criteria as outlined in subrule 176.3(1), a dependent adult abuse investigation will be initiated and will be assigned to a department employee. The department will make an effort to observe and examine the dependent adult and evaluate the dependent adult's safety.

a. When report information indicates an immediate risk of death, immediate risk of serious or irreparable harm, or immediate risk of significant loss of income, assets, or resources to the dependent adult, the initial response will occur no later than 24 hours after receipt of a report of dependent adult abuse.

b. When report information does not indicate an immediate risk of death, serious or irreparable harm, or significant loss of income, assets, or resources, the initial response will occur no later than 72 hours after receipt of a report of dependent adult abuse.

c. When reasonable efforts have been made to observe the adult subject within the specified time frames and the department 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 department employee will conduct an investigation 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) If, following acceptance of a report, information obtained during initial case activity establishes that the report was accepted on materially inaccurate reported facts and does not fall within the scope of Iowa Code chapter 235B, the department employee may, with department approval, terminate the investigation and submit the investigative summary. In such cases, completion of assessments required under Iowa Code section 235B.16A are not required.

441—176.8(235B) Registry records. Registry records will be kept in the name of the dependent adult and cross-referenced in the name of the alleged person responsible (if applicable).

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

176.9(1) *Requests for information.* Written requests for dependent adult abuse information by the subject of a report may be submitted to the county office of the department on the department-prescribed forms.

a. Oral requests for dependent adult abuse information may be made to the county office or the 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.6.

b. 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. When an oral request to the county office to obtain dependent adult abuse information is granted by the registry, the county shall document the approval to the registry on the department-prescribed form.

c. All other requests for information shall be made to the registry in writing pursuant to the requirements of Iowa Code section 235B.7.

176.9(2) *Verification of identity.* The county office will verify the identity of the person making the request on the department-prescribed form. Upon verification of the identity of the person making the request, the county office will transmit the request to the registry. The registry will verify the

identity of persons making requests for information directly to the registry by telephone, mail, or fax, or in person on the appropriate department-prescribed form.

176.9(3) *Approval of requests.* The department will 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 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(2)*"e"*(6) and *"e"* (7), shall request the information directly from the registry or obtain the information from the single contact repository (SING).

176.9(5) *Requests concerning employees of department facilities.* The department may conduct periodic background checks as needed. The department will inform the hiring authority only upon a finding that the results of a background check have a direct bearing on employability of the person employed. When the personnel office determines that the information has no direct bearing on employability, the hiring authority will be notified that no job-related dependent adult abuse information is available. If the registry and local office files contain no information, the hiring authority will be so informed.

176.9(6) *Dependent adult abuse information disseminated and redisseminated.* Notwithstanding 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, a district court, the attorney representing the department as authorized by Iowa Code section 235B.6, or the office of the attorney general.

176.9(7) *Required notification.* The department will make a reasonable attempt to notify dependent adult abuse subjects as described in Iowa Code section 235B.6(2)*"a"* of the outcome of the dependent adult abuse investigation. The department shall subsequently send a written notice to the report subjects that will include information regarding the finding, 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(8) *Reporter notification.* Following the reporting of suspected dependent adult abuse, the department will inform the mandatory or permissive reporter, orally or by other appropriate means, whether the department commenced an investigation or if the concern was referred to another agency.

176.9(9) *Subjects informed of abuse history.* The department may inform a subject of a dependent adult abuse investigation 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 finding of founded abuse or is listed on the sex offender registry.

441—176.10(235B) Examination of information. Pursuant to Iowa Code section 235B.10, any person, or that person's attorney, requesting to examine the information in the registry that refers to that person shall be allowed to inspect the information after providing appropriate identification.

441—176.11(235B) Dependent adult abuse information registry. The department will create a central abuse registry for dependent adult abuse information. The registry will collect, retain, and disseminate dependent adult abuse information from DARES as described in Iowa Code section 235B.9.

441—176.12(235B) Multidisciplinary teams.

176.12(1) *Purpose of multidisciplinary teams.* The department will 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.

176.12(2) *Execution of team agreement.* When the team is established, the department and all team members shall execute an agreement on a form prescribed by the department.

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

b. Any team member may cause a dependent adult abuse case to be reviewed if approved by the department.

c. No team members shall redisseminate dependent adult abuse information obtained solely through the multidisciplinary team. This shall not preclude redissemination 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. The department may consider the recommendation of the team in a specific dependent adult abuse case but will not be bound by the recommendations.

e. Any 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.

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

g. Consultation team members shall serve without compensation.

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

i. All agreements must include the date on which the agreement will expire.

176.12(3) *Filing of agreement.* Whenever a team is created, a copy of the executed agreement will be kept by the department, in addition to any other requirements placed upon execution of the agreement by the department.

441—176.13(235B) Request for correction or expungement. The department is responsible for correction or expungement of investigative summaries prepared by department staff. The department of inspections, appeals, and licensing is responsible for correction or expungement of investigative summaries prepared by that department's staff.

176.13(1) When a request for correction or expungement pursuant to Iowa Code section 235B.10 is received by the registry, the registry will record the request and promptly forward it to the appropriate area for review. The determinations made will be binding on the registry.

176.13(2) Unless the designated department corrects the information or findings as requested, the designated department shall provide the person making the request with an opportunity for a hearing as provided by 441—Chapter 2506 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.