

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 system on dependent adults (SODA).

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 on SODA.

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 Form 470-3246, Dependent Adult Assessment Tool. 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 persuade the at-risk adult to agree to accept services and to participate in preparing a safety plan. If the adult refuses to sign Form 470-4835, Safety Plan for At-Risk Adult, and to accept 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) Persuade the adult to accept services and to sign Form 470-4835, Safety Plan for At-Risk Adult.

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.