



Iowa Department of Human Services

DEPENDENT ADULT PROTECTIVE SERVICES

**FACILITY, AGENCY, AND
PROGRAM
EVALUATION HANDBOOK**

OVERVIEW

This Handbook provides a guide for evaluation of dependent adult abuse perpetrated by a caregiver in out-of-home care settings. It will facilitate the provision of protective services to dependent adults in one of the many available living arrangements in our communities.

(This Handbook does not address denial of critical care by a dependent adult. For guidelines on how to assess self-denial of critical care, see [Comm. 96, *Dependent Adult Protection Handbook*](#), in DHS *Employees' Manual* 16-G-Appendix.)

This Handbook is intended for use with dependent adult protection evaluations in the following settings, that are not health care facilities or programs nor in the home:

- ◆ Family-life homes
- ◆ Hospice programs
- ◆ Respite care
- ◆ Waiver programs
- ◆ Vocational rehabilitation
- ◆ Sheltered workshops
- ◆ Work activity centers

These facilities, agencies, and programs are licensed, certified, or approved by the Iowa Department of Human Services (DHS), the Iowa Department of Public Health (DPH), and county governments.

The Iowa Department of Inspections and Appeals (DIA) evaluates allegations of dependent adult abuse in the following facilities and programs that are licensed under Iowa Code Chapter 135C or certified or defined under Iowa Code Chapter 231B, 231C, or 231D:

- ◆ Adult day services
- ◆ Assisted living programs
- ◆ Elder group homes
- ◆ Hospitals
- ◆ Intermediate care facilities for the mentally ill
- ◆ Intermediate care facilities for the mentally retarded
- ◆ Nursing facilities
- ◆ Residential care facilities
- ◆ State mental health institutes

DHS will assess the immediate threat to a dependent adult's physical safety when a referral related to one of these facilities or programs is received after hours, on a weekend, or on a state holiday.

DIA registers boarding homes and DHS evaluates allegations of abuse of dependent adults living in boarding homes. DHS may participate in a multidisciplinary team assembled for the purpose of investigating issues alleged or discovered during an evaluation that concern any of the following agencies:

- ◆ The State Fire Marshal,
- ◆ The Division of Criminal Investigations of the Department of Public Safety,
- ◆ The Workforce Development Department,
- ◆ The Civil Rights Commission, or
- ◆ Other local, state, or federal agencies.

DHS may be asked to perform assessments of the occupants of the boarding homes to determine if they are dependent, even if there are no allegations of abuse.

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EVALUATION PROCESS

The dependent adult abuse evaluation process consists of the following steps:

- ◆ [Intake](#)
- ◆ [Opening an Evaluation \(Case Assignment\)](#)
 - [First contacts](#)
 - [Role of licensing, certification, policy specialists or other personnel](#)
- ◆ [Evaluation of Abuse](#)
 - [Evaluating immediate safety of the dependent adult](#)
 - [Evaluation contacts](#)
 - [Interviews with subjects of the report and other relevant collateral sources](#)
 - [Physical and documentary evidence](#)
 - [Use of physical restraints](#)
 - [Evaluating of dependent adult's safety](#)
- ◆ [Determining Report Conclusions](#)
 - [Chain of command](#)
 - [Facility, agency or program policies](#)
 - [Policy and programming](#)
 - [Staffing practices](#)
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 - [Determining report conclusions](#)
 - [Service recommendations](#)
- ◆ [Closure Meeting](#)
- ◆ [Evaluation Report and Notices](#)
- ◆ [Notice to Facility](#)
 - [Rights of persons with founded dependent adult abuse record](#)
 - [Sample notice to facility](#)

INTAKE

Evaluations of abuse reports in out-of-home care settings are different from those in home settings, in that they may involve problems with policies and procedures of the facility, agency, or program or licensure and certification issues. Not all allegations of abuse involving out-of-home care settings involve these other issues, but you must consider whether they do.

If you accept a referral of abuse in an out-of-home care setting, notify the administrator and licensure person of the facility, agency or program, as soon as possible. Charts outlining who those persons are can be found in the section, [Regulatory Authorities](#).

Reports of alleged dependent adult abuse in health care facilities, agencies, and programs are subject to the same acceptance criteria as other reports of alleged dependent adult abuse in that:

- ◆ The alleged victim must meet the legal definition of being a [dependent adult](#).
- ◆ The alleged perpetrator must be a [caretaker](#) for the dependent adult.
- ◆ The allegations must meet the legal definition of [dependent adult abuse](#).

Dependent Adult

The Iowa Code section 235B.2 defines a “dependent adult” as being “a person eighteen years of age or older who is unable to protect the person’s own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another.”

Caretaker

The Iowa Code section 235B.2 defines a “caretaker” as being “a related or non-related person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.”

For facility evaluations, in addition to direct care staff, all management staff, supervisors, and administrators have caretaker responsibilities and can be named as caretaker responsible for abuse in a dependent adult abuse report. [See [Chain of Command](#).]

Dependent Adult Abuse

The Iowa Code section 235B.2 defines “dependent adult abuse” as being any of the following as a result of the willful or negligent acts of a caretaker:

◆ **Physical Abuse:**

Physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement or unreasonable punishment, or assault of a dependent adult, as a result of the willful or negligent acts or omissions of a caretaker.

- **Non-accidental (physical injury):** An injury which was the natural and probable result of a caretaker’s actions which the caretaker could have reasonably foreseen, or which a reasonable person could have foreseen in similar circumstances, or which resulted from an act administered for the specific purpose of causing an injury.
- **Physical injury:** Damage to any bodily tissue to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, or damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition, or damage to any bodily tissue which results in the death of the person who sustained the damage.
- **Unreasonable confinement or punishment:** Any legally unauthorized, medically unwarranted or improperly administered restrictions of physical movement, locking up, binding, chaining, or sedative medicating of a dependent adult.
- **Assault:** A person commits an assault when, without justification, the person does any of the following:
 - Commits any act which is intended to cause pain or injury to a dependent adult, or which is intended to result in physical contact which will be insulting or offensive to a dependent adult, coupled with the apparent ability to execute the act.
 - Commits any act which is intended to place a dependent adult in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.
 - Intentionally points any firearm toward a dependent adult or displays in a threatening manner any dangerous weapon toward a dependent adult.

The act is NOT an assault when the caretaker and the dependent adult are voluntary participants in a sport, social activity, or other activity not in and of itself, criminal, and the act is a reasonably foreseeable incident of such sport or activity, and does not create an unreasonable risk of serious injury or breach of the peace. [Iowa Code, Section 708.1, subsection 3, paragraph 2.]

◆ **Physical Restraints:**

A report may allege physical abuse as a result of physical restraint at a facility, agency or program. Physical restraint of a dependent adult, who is a resident of a health care facility, agency, or program, may be necessary to prevent the dependent adult from injuring self or others, damaging property, or engaging in extremely disruptive behaviors.

When determining if incidents involving the report of physical abuse due to the use of physical restraints are dependent adult abuse, consider the following:

- Whether the restraint used was reasonable, considering the precipitating situation.
- The seriousness of the injury to the dependent adult.
- Whether attempts were made to avoid injury.
- Whether the injury is compatible with the explanation provided.
- Whether or not the restraint was applied appropriately and executed properly.
- Whether or not the person who had applied the restraint received adequate training.
- Whether or not the use of restraints is prescribed by the dependent adult's physician and included in the individual's plan of care.

◆ **Sexual Abuse:**

The commission of a sexual offense under chapter 709 or section 726.2 with or against a dependent adult as a result of the willful or negligent acts or omissions of a caretaker.

This includes the following categories:

- First degree sexual abuse
- Second degree sexual abuse
- Third degree sexual abuse
- Indecent exposure
- Assault with intent to commit sexual abuse
- Incest
- Sexual exploitation by a counselor or therapist
- Invasion of privacy, nudity
- Sexual exploitation by a caretaker

“Counselor or therapist means a physician, psychologist, nurse, professional counselor, social worker, marriage or family therapist, alcohol or drug counselor, member of the clergy, or any other person, whether or not licensed or registered by the state, who provides or purports to provide mental health services.”

Note: This definition includes staff in residential facilities who have the title of “counselor,” “treatment worker,” “therapist,” “cottage parent,” or other terms designating a position of authority over and responsibility for treatment services to dependent adults who are residing in the facility, even if these people do not have professional degrees or training.

◆ **Exploitation:**

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 as a result of the willful or negligent acts or omissions of a caretaker.

- **Informed consent** 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. [441 IAC 176.1(235B)]
- **Theft** means the taking of the property of another, with the intent to deprive the other of said property, or misappropriating property which has been placed in your trust, or exercising control over stolen property knowing that it is stolen, or obtaining property or another by deception. [Iowa Code section 714.1] The seriousness of the crime increases with the value of the property.
- **Undue influence** means the improper use of power or trust in a way that deprives a person of free will and substitutes another's objectives. Consent to a contract, transaction, relationship, or conduct is violable if the consent is obtained through undue influence. [Black's Law Dictionary, Seventh Edition, West Group, 1999]
- **Harassment** means when a person purposefully and without legitimate purpose, has personal contact with another person, with the intent to threaten, intimidate, or alarm that other person. [Iowa Code section 708.7.1]
- **Duress** means a condition where one is induced by wrongful act or threat of another to do something under circumstances, which deprive him/her to the exercise of free will. Duress may also include the same injuries, threats, or restraint exercised upon a person's spouse, child or parent. Broadly, the threat of confinement or detention, or other threat of harm, used to compel a person to do something against his or her will or judgment. [Black's Law Dictionary, Seventh Edition, West Group, 1999]
- **Deception** means the act of deceiving, intentional misleading by falsehood spoken or acted. It means knowingly and willfully making a false statement or representation pertaining to a present or past existing fact. [Webster's Seventh New Collegiate Dictionary, Merriam-Webster, 1969]
- **False representation** is the act or making a false or misleading statement about something, usually with the intent to deceive. The statement so made; an assertion that does not accord with the facts. [Black's Law Dictionary, Seventh Edition, West Group, 1999]

- **False pretenses** is the crime of knowingly obtaining title to another's personal property by misrepresenting a fact with the intent to defraud. [Black's Law Dictionary, Seventh Edition, West Group, 1999]

◆ **Denial of Critical Care:**

The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult's life or health, as a result of the willful or negligent acts or omissions of a caretaker. This includes the following subcategories:

- Denial of or failure to provide adequate food
- Denial of or failure to provide adequate shelter
- Denial of or failure to provide adequate clothing
- Denial of or failure to provide adequate medical care
- Denial of or failure to provide adequate mental health care
- Denial of or failure to meet emotional needs necessary for normal functioning
- Denial of or failure to provide proper supervision
- Denial of or failure to provide adequate physical care

◆ **Denial of Critical Care (Self):**

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. (Same subcategories as above.)

Note: This Handbook does not address denial of critical care by a dependent adult. For guidelines on how to assess self-denial of critical care, see [Comm. 96, *Dependent Adult Protection Handbook*](#), in DHS Employees' Manual 16-G-Appendix.)

◆ **Sexual Exploitation of a Dependent Adult by a Caretaker**

Any consensual or nonconsensual sexual conduct 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 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 or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.

Dependent adult abuse does **not** include:

- ◆ Depriving a dependent adult of 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. (This provision does not preclude a court from ordering that medical service be provided to the dependent adult if the person's health requires it.)
- ◆ The withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing is done at the request of the dependent adult or the request of the dependent adult's next of kin or guardian, pursuant to the applicable procedures under Iowa Code Chapters 125, 222, 229, or 633.

Rejected Intakes

When the information you receive as a referral does not meet legal criteria to initiate a dependent adult abuse evaluation, refer the reporter to the most appropriate agency or person, including:

- ◆ Licensing or regulatory body
- ◆ Law enforcement or county attorney
- ◆ Central point of coordination administrator
- ◆ DHS adult case worker
- ◆ Domestic abuse agency
- ◆ Other community service agencies

Encourage informants to make their own referral to more appropriate resources when the information does not fall within the definitions of dependent adult abuse.

When the referral does not meet the criteria for an evaluation but alleges illegal activity, notify law enforcement. All rejected intakes must be sent to the county attorney's office.

Licensure or Policy Issue Only

If a referral of abuse in an out-of-home care setting appears to be a licensing or certification issue, or a problem with policy or procedure, refer the reporter to the licensing person or the administrator of the facility, agency, or program. For charts outlining who those people are, see [Regulatory Authorities](#).

Licensure or Policy Issue and Dependent Adult Abuse Allegation

If the referral of abuse in an out-of-home care setting is a licensing or certification issue or a problem with policy or procedure AND an allegation of abuse that meets the definition in Iowa Code Chapter 235B, do a joint evaluation with the person responsible for licensing or certification. For charts outlining who those people are, see [Regulatory Authorities](#).

OPENING AN EVALUATION

Once it is determined that a report constitutes an allegation of dependent adult abuse, make a reasonable attempt to see the dependent adult within 24 hours. When you are assigned a report, observe the dependent adult, complete the evaluation, and prepare the written report within 20 working days from the date that the report was made to the Department. An extension of the 20-day time limit may be requested for good cause.

Case Assignment

The county in which the dependent adult victim's home is located has primary responsibility for completing the dependent adult abuse evaluation. If a dependent adult is in a placement and is alleged to have been abused in that placement, the protective services unit that serves the county where the dependent adult is placed has primary responsibility for completing the evaluation. The following chart clarifies jurisdictional issues.

If the dependent adult resides...	and the alleged abuse occurred...	the county with jurisdiction is...
at home	in the home	the home county
at home	in former placement	the home county
with relatives	at the relatives' home	the relatives' county
in placement	at home	the placement county
in placement	in that placement	the placement county
in placement	in a former placement	the placement county

Regulatory Authorities

The following is a list of regulatory personnel and others you may need to notify when you initiate and conduct a dependent adult abuse evaluation in a health care facility, agency or program.

Agency administrator: The on-site director or administrator of the program.

Area agency on aging program manager: The person in the local area agency on aging who manages the program.

County central point of coordination administrator: Every county has a central point of coordination administrator who is responsible for contracts with agencies in the community.

DHS adult service worker: DHS caseworkers, also called treatment or generic workers.

DHS case manager: Medicaid targeted case manager for persons who have mental health or developmental disability challenges.

DHS Long Term Care Bureau chief: Chief of the Bureau of Long Term Care in the Division of Medical Services, Iowa Medicaid Enterprise.

DIA licensure surveyor: Licensure surveyor for hospice programs through the Department of Inspections and Appeals. Licensure is voluntary, however. DIA also certifies hospice programs for Medicare. Notify the DIA complaint hot line at 1-877-686-0027.

Guardian of dependent adult: Some dependent adults have legal (court-appointed) guardians who are responsible for the well being of the dependent adult.

Home- and community-based specialist: Home- and community-based specialists work in offices out in the community. If you don't know who is the specialist in your area, contact your county central point of coordination administrator.

Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury

Commission: The regulating body that approves certificates of accreditation for case management, community mental health centers, community supported living arrangements, and other mental health services.

Rehabilitation Resources Bureau policy coordinator: The person responsible for accrediting the vocational rehabilitation programs through the federal Work Force Investment Act of 1998 for the state.

Rehabilitation resources counselor: Counselor for consumers in vocational rehabilitation programs, located in offices around the state. If you don't know who is the counselor for the consumer you are working with, contact your county central point of coordination administrator or call the state Rehabilitation Resources Bureau at 515-281-3041.

Substance abuse licensure surveyor: Licensure surveyor for substance abuse programs, through the Department of Public Health. If you don't know who is the surveyor for the program you are conducting an evaluation in, call the bureau chief for the substance abuse licensure surveyors at the Department of Public Health at 515-242-6514.

The following chart summarizes the legal authority for the various programs, the agency responsible for determining whether the facility, agency, or program meets these standards, and the people that you need to notify when you begin an evaluation involving that type of facility, agency, or program.

Facilities, Agencies, and Programs Where DHS Completes Dependent Adult Abuse Evaluations

Setting:	Governed by:	Regulated by:	Notify when initiating evaluation:
Adult support	County contract	County central point of coordination administrator	Agency administrator, guardian of dependent adult, DHS case manager or adult services worker
Case management, Community mental health centers, Community supported living, Other mental health services	441 IAC 24	DHS Division of Mental Health and Disabilities Services	Agency administrator, MHD quality assurance staff, guardian of dependent adult, DHS case manager or adult services worker
Community supervised apartment living arrangement services	County contract	County central point of coordination administrator	Agency administrator, guardian of dependent adult, DHS case manager or adult service worker
Family-life homes	441 IAC 111	DHS service worker or case manager	DHS supervisor, guardian of dependent adult, DHS case manager or adult services worker
Home- and community-based waiver services, including: Supported employment, Supported community living, Case management services	441 IAC 77, 78, 83	DHS Bureau of Long-Term Care	Agency administrator, Long-Term Care Bureau chief, HCBS waiver specialist, guardian of dependent adult, DHS case manager or adult services worker
Hospice programs	Iowa Code Chapter 135J 481 IAC 53	Department of Inspections and Appeals, Division of Health Facilities	Agency administrator, DIA licensure surveyor, guardian of dependent adult, case manager
Sheltered work program Work activity program	County contract	County central point of coordination administrator	Agency administrator, guardian of dependent adult, DHS case manager or adult services worker
Substance abuse program	Iowa Code Chapter 125	Department of Public Health, Division of Substance Abuse	Agency administrator, DPH licensure surveyor, guardian of dependent adult, case manager

Facilities, Agencies, and Programs Where DHS Completes Dependent Adult Abuse Evaluations			
Setting:	Governed by:	Regulated by:	Notify when initiating evaluation:
Vocational rehabilitation program	Federal Workforce Investment Act for 1998	Department of Education, Rehabilitation Resources Bureau	Agency administrator, RR policy coordinator, rehabilitation counselor of dependent adult, guardian of dependent adult, case manager

Other Regulatory Authorities Related to Facilities, Agencies and Programs

You may want to contact the following regulatory authorities if the allegation of abuse includes issues addressed by these authorities or issues are discovered during your evaluation of abuse.

Equal Opportunity Commission, U.S. Department of Labor addresses issues with agencies that have contracts to employ persons at less than minimum wage. (1-800-669-4000)

Iowa Civil Rights Commission addresses issues relating to civil rights, such as being discriminated against due to race, gender, or age. (1-800-457-4416)

Iowa Department of Public Health addresses issues related to public health and the safety of persons living in unsafe living arrangements. (1-800-227-9878)

Iowa Department of Public Safety, **Division of Criminal Investigations** works with issues such as conflict of interest involving local law enforcement. (515-725-6010) (See 16-G, [Law Enforcement Intervention](#) and [Law Enforcement Responsibilities](#))

Iowa Workforce Development, **Division of Labor Services**, works with persons who have issues with employment. This includes persons working for less than minimum wages or working in unsafe conditions. (515-281-6374)

The State Fire Marshall works with issues relating to the safety of buildings such as the local fire department not addressing unattended safety concerns. (515-25-6145)

Depending on the allegations, you may want to coordinate your interviews with representatives from any of the above agencies or other entities concerned with quality of services, such as HCBS waiver program specialists.

Boarding Homes

2009 Iowa Acts, Senate File 484, sections 3, 4, and 5

If the abuse referral concerns a dependent adult living in a boarding home, you may be asked to coordinate your interviews with other regulatory authorities, such as those listed in the section above. DIA registers boarding homes and will address any issues relating to registration.

Boarding home registration laws authorize interagency multidisciplinary teams to respond to allegations of violations of registration or allegations of abuse. DHS is authorized to respond to the allegations of abuse.

DHS Intake Units will work with the Service Help Desk to coordinate the multidisciplinary teams if it is known when the report of abuse is made that it concerns a boarding home. When you are assigned the evaluation of abuse, you will be notified what other agencies are involved and specifically who to contact. Because of DHS time lines for evaluating alleged abuse of dependent adults, you will most likely be making the initial home visit before any other agencies.

If you discover that the evaluation you have been assigned concerns a dependent adult living in a boarding home, immediately notify your supervisor. Either you or your supervisor shall contact the Service Help Desk for further instructions on how to proceed. **Help Desk: 1-866-347-7782**

DIA may request that DHS conduct assessments on all the occupants of a boarding home to determine if they are dependent. Because there is no allegation of abuse, do not enter an evaluation on the System on Dependent Adults (SODA), but rather complete an assessment on form 470-4841, *Dependent Adult Assessment Tool*, and store as a hard copy only. See 16-G, [DEPENDENT ADULT PROTECTIVE SERVICES](#), for further instructions.

Facilities and Programs Where DIA Evaluates Allegations of Abuse

The Iowa Department of Inspections and Appeals (DIA) is responsible for the evaluation and disposition of dependent adult abuse reports within health care facilities and programs that are licensed or certified under Iowa Code Chapter 135B, 135C, 231B, 231C, or 231D when facility staff members are the alleged perpetrators. These facilities include:

- ◆ Residential care facilities (RCFs)
- ◆ Nursing facilities
- ◆ Intermediate care facilities for persons with mental retardation (ICF/MR), including:
 - Glenwood Resource Center
 - Woodward Resource Center
- ◆ Intermediate care facilities for persons with mental illness (ICF/MI)
- ◆ Elder group homes

- ◆ Assisted living programs
- ◆ Adult day services programs

DIA is responsible for evaluations of dependent adult abuse reports concerning patients in hospitals when hospital employees are the alleged perpetrators, including patients in:

- ◆ Cherokee Mental Health Institute
- ◆ Clarinda Mental Health Institute
- ◆ Independence Mental Health Institute
- ◆ Mount Pleasant Mental Health Institute

To find out if a program, agency or facility is licensed by DIA through Iowa Code Chapter 135C, go to the DIA Facility Web site: https://dia-hfd.iowa.gov/DIA_HFD/Home.do

When you have this site, click on “entity search” on the left side of the page. Type in the name of the facility you are inquiring about in “Entity Name.” Enter the name of the city in “Entity City.” Click “Search.” If the facility or agency is listed, DIA has responsibility for evaluating dependent adult abuse for that agency.

Forward any referral of alleged dependent adult abuse by a staff member of a health care facility or program as listed above immediately (as soon as is practicable) to the DIA staff person who evaluates allegations of dependent adult abuse for the area. (DIA can be contacted at 1-877-686-0027.)

DHS Responsibilities for Allegations of Abuse in Health Care Facilities

DHS staff are responsible for evaluating alleged abuse of a dependent adult who is a resident of a health care facility, elder group home, assisted living program, or adult day service program when:

- ◆ The alleged perpetrator is a caretaker other than facility or program staff members. This includes an allegation of financial exploitation when someone outside of the facility or program has control of the dependent adult’s finances.
- ◆ The alleged abuse occurred when the dependent adult was out of the facility or program with a caretaker other than facility staff members.

In such cases, an evaluation of alleged dependent adult abuse of a resident of a health care facility, elder group home, or adult day program is conducted the same as an evaluation of a dependent adult abuse living in the community, using this handbook as a guide.

DHS Response to Allegations After Hours, Weekends, and Holidays

DHS will assess the immediate threat to the physical safety of the resident when a referral is made alleging abuse of a dependent adult in a program or facility where DIA is responsible for the evaluation when the referral is received:

- ◆ After 4:30 p.m. Monday through Friday,
- ◆ On a weekend, or
- ◆ On a state holiday.

If you receive such a referral after hours, on a weekend, or a holiday, proceed as follows:

- ◆ If it appears that the dependent adult is at risk of immediate danger to health or safety, contact local law enforcement for assistance. Proceed to the facility to address safety of the alleged victim. Upon arrival, notify the administrator or designee of the allegations.
- ◆ If you determine that the dependent adult is in immediate danger to health or safety, take steps necessary for the dependent adult's safety, with the assistance of law enforcement.
- ◆ If the dependent adult has been physically harmed in any way or appears to need medical care, ensure that arrangements are made for the dependent adult to receive medical care.
- ◆ Report the incident and forward any information collected to the DIA on the first working day following receipt of the referral. To report the incident, call the DIA Division of Health Care Facilities at 1-877-686-0027.
- ◆ Prepare a written report on the actions taken on behalf of the alleged victim and send a copy to DIA. DIA will complete the dependent adult abuse evaluation.

Initial Contacts

For facilities, agencies and programs, the administrator or director is typically the principal contact person. Ask the facility, agency, or program administrator or director to designate primary contact personnel for business hours and for evening and weekend hours.

Contact registration, licensing, or regulating personnel regarding the allegations and licensing issues regardless of the decision of whether to accept or reject the referral or the outcome of the evaluation.

Contact with the administrator or director may be simultaneous with the first visit to the facility, agency, or program. If the administrator or director is the alleged perpetrator, seek supervisory or program consultation for consideration of alternative notification. When appropriate, in compliance with local protocol, notify law enforcement.

Notify appropriate personnel within the DHS chain of command as required by local protocol. Notify the caseworker for the dependent adult. Involve the caseworker in the evaluation and keep the caseworker apprised of developments, as appropriate.

As always, notify the county attorney of all intakes.

Note: For purposes of appeal and dissemination when there are multiple alleged perpetrators or multiple victims, create a separate case for each alleged perpetrator and victim.

You may want to consider “teaming” an evaluation by getting assistance from any of the following:

- ◆ Another DHS worker
- ◆ Law enforcement officer
- ◆ Caseworker

INITIAL CONTACTS

When you are assigned a dependent adult evaluation involving a facility, contact the following:

FACILITY DIRECTOR OR ADMINISTRATOR:

- ◆ Inform the director/administrator of the report.
- ◆ Arrange for safety (alleged victim and others).
- ◆ Document the director/administrator’s plan to keep residents safe.
- ◆ Make arrangements to interview the alleged victim and other relevant collateral sources.
- ◆ Identify a contact person (may be the director/administrator).
- ◆ Identify interviewees (as much as possible).
- ◆ Plan for personal visit to facility.
- ◆ Identify documents needed:
 - Table of organization
 - Staffing records for specified dates
 - Relevant facility policy and procedure
 - Relevant internal logs including medical logs
 - Relevant incident reports
 - Dependent adult’s facility case record
 - Internal review

INITIAL CONTACTS

- Information from alleged perpetrator's personnel file:
 - Job description including requirements and responsibilities
 - Clarifications, reprimands, disciplinary actions
 - Dependent adult abuse registry check and criminal history check
 - Policy and procedure 'check-off'
 - Relevant training history
 - Mandatory reporter training certification

See [Dependent Adult Abuse Checklist for Facility, Agency or Program](#).

- ◆ Keep the administrator or the administrator's designee informed as to the progress of the assessment.
- ◆ If the administrator is alleged to be the person responsible for the abuse, consult with supervisory staff regarding how to proceed with the assessment.

LICENSING WORKER FOR THE FACILITY:

Provide information regarding the report to the licensing worker. For residential facilities, the licensing inspection worker is employed by the Department of Inspections and Appeals. Contact the DIA coordinator for consultation. Document these contacts with (or attempts to contact) the licensing worker or registration worker in the written report.

Ask the licensing worker to assist in conducting the assessment. The licensing worker can provide information on whether the facility's policies and procedures comply with licensing standards. This allows you to focus on the specific report of abuse.

It is not necessary for the licensing worker to be present during every visit to the facility or for every interview conducted. Try to agree upon which aspects of the assessment you will do jointly or separately.

- ◆ Inform of allegations
- ◆ Determine roles and strategy
- ◆ Plan for joint personal visit to facility if possible

SERVICE CASE WORKER:

A dependent adult who resides in a facility is likely to have a caseworker assigned. Contact the service caseworker for the subject, if applicable. Document these contacts (or attempts to contact) in the written report. The caseworker can provide information about the dependent adult and the facility and may wish to participate in interviewing the dependent adult and other collateral sources.

- ◆ Inform of allegations
- ◆ Inform of plan

FAMILY (LEGAL GUARDIAN):

- ◆ Inform of allegations
- ◆ Inform of plan

INITIAL CONTACTS

OTHER DHS PERSONNEL (VARIES ACCORDING TO LOCAL POLICIES AND PROCEDURES):

Service area administrator, service supervisor (may be more than one).

- ◆ Inform of allegations
- ◆ Inform of plan

LAW ENFORCEMENT:

- ◆ Inform of allegations
- ◆ Develop a plan for joint investigation

Dependent Adult Abuse Checklist for Facility, Agency or Program

Purpose: Form 470-3860 is used to assist the facility, agency, or program director, administrator, or other person in charge, with a list of what is necessary to do and what documents to provide to DHS when there is an allegation of abuse of a dependent adult.

Supply: Form 470-3860 can be printed off on-line manual for 16-G-Appendix by double clicking on the heading that is enclosed in a blue box to open the form and click "Print."

Completion: The field worker with primary responsibility for the report completes the form before notifying the person in charge of the facility, agency or program, that an allegation of abuse of a dependent adult has been made on someone in their facility, agency or program. Deliver the form in person or mail it if the person in charge is not available at the first visit.

Distribution: Make two copies, one for the person in charge and one for the completed report.

Data: Enter the date and the name of the person in charge in the facility, agency or program. Complete "other" spaces if there are other actions or data that need to be made available to DHS.

See the next page for a facsimile of this form.



CHESTER J. CULVER, GOVERNOR
PATTY JUDGE, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
CHARLES J. KROGMEIER, DIRECTOR

DEPENDENT ADULT ABUSE CHECKLIST FOR FACILITY, AGENCY OR PROGRAM

DATE:

TO: Facility, Program or Agency Director, Administrator, or Other Person in Charge

ATTENTION:

FROM: Department of Human Services

SUBJECT: Allegation of Dependent Adult Abuse in Facility, Program or Agency

There has been an allegation of abuse of a dependent adult in this facility, agency or program. It is necessary to arrange for the safety of any alleged victims and others that may be at risk of danger.

Plan of action:

- ___ Arrange for safety of alleged victim and others
___ Arrange interviews with alleged victim(s)
___ Identify a contact person
___ Identify others who need to be interviewed
___ Other: _____

Please arrange to make the following documents available to the DHS Protective Service Worker:

- ___ Table of Organization
___ Staffing records for specified dates
___ Relevant policy and procedure of facility, program or agency
___ Relevant internal logs including medical logs
___ Relevant incident reports
___ Dependent adult's case record
___ Internal review
___ Other: _____

Please arrange to make the following information from alleged perpetrator's personnel file available to the DHS Protective Service Worker:

- ___ Job description including requirements and responsibilities
___ Clarifications, reprimands, and disciplinary actions
___ Dependent adult abuse registry check and criminal history check
___ Policy and procedure 'check list'
___ Relevant training history
___ Mandatory reporter training certificate
___ Other: _____

Role of Licensing, Certification, Policy Specialists or Other Personnel

Contact the licensing manager or other policy specialist when a dependent adult abuse evaluation is initiated in a facility, agency, or program, so it can be determined if a joint evaluation is needed.

You may want the licensing manager involved in the evaluation because licensing violations could be part of a pattern of abuse or may have contributed to the abuse. Discuss the allegation with your supervisor and the licensing manager to determine whether or not a joint evaluation is necessary.

You may consult the licensing manager regarding facility licensing standards at any point in the evaluation. If a joint evaluation is appropriate and necessary, the licensing manager will focus on policy, procedure, practice, and documentation, which relate to specific standards. You will focus on the specific alleged abuse and how the policies and practices may have contributed to abuse.

The licensing person has a dual role in a dependent adult abuse evaluation. The first is the requirements for licensure, certification, or registration. The other is to assist the DHS protective worker, law enforcement, and county attorney, as needed in the dependent adult abuse evaluation.

During the evaluation the licensing person will assist you with:

- ◆ Evaluating safety of the dependent adult.
- ◆ Providing relevant information regarding the facility, agency or program including:
 - The history of the facility, agency or program.
 - Personnel.
 - Past complaints.
 - Policy and programming.
 - Staffing practices.
- ◆ Communicating about the situation with central office licensing staff or other governing bodies.

The licensing person will be conducting a separate evaluation of policy and procedures concerning regulations, which will include the following:

- ◆ Evaluating safety of dependent adults.
- ◆ Determining if licensing or regulating laws have been violated.
- ◆ Documenting a summary of the complaint.
- ◆ Handling notifications or follow-up for licensing.

- ◆ Providing technical assistance and consultation to the facility, agency, or program to correct deficiencies and improve quality of service, or
- ◆ Pursuing denial or revocation of the license, if necessary.

If an evaluation results in a founded report, the licensing manager may choose to follow up to determine if legal remedies have been sought, if the perpetrator is no longer working at the facility, agency, or program, or if an evaluation has been conducted by DHS.

The licensing manager will review the *Notice to Facility* letter and follow up if there is an indication of a licensing standard violation. The licensing manager may request a corrective action plan from the facility, agency, or program.

Depending on the circumstances and evaluation information, a licensing complaint investigation may be ongoing after completion of the dependent adult abuse evaluation. The licensing manager may refer non-licensing problems to appropriate agencies (fire marshal's office, state health department, etc.).

EVALUATION OF ALLEGED ABUSE

An evaluation of dependent adult abuse that occurred in a facility, agency, or program includes:

- ◆ Evaluating the immediate safety of the dependent adult.
- ◆ Evaluating the abuse, which includes:
 - Interviewing witnesses and experts.
 - Collecting evidence.
 - Observation of the facility.
- ◆ Evaluating the information you collect.

Evaluate the environment where the abuse occurred. Assess the relationships between the alleged perpetrator of abuse of the dependent adult and any other dependent adults receiving care from the alleged perpetrator. Evaluate the chain of command to determine if someone is directly responsible for the abuse or if policy or practice led to the abuse.

Evaluate the facility, agency, or program's ability to adequately provide any special services required by dependent adults currently under their care, if the allegation relates to a patient or client not receiving adequate care for special needs.

For example, if the alleged abuse concerned a person with Alzheimer's disease who was injured by a staff person trying to calm the patient who was acting out, assess the ability of staff to provide care to people who have Alzheimer's disease. Assess the facility, agency, or program's policies and procedures to determine their strengths and needs.

If you discover during the course of your evaluation that perpetrators of the alleged abuse had received inadequate training, evaluate the training program of the facility, agency, or program. Determine if the training is adequate to provide the types of skills required for staff to be able to provide adequate and safe care to the dependent adults currently receiving care from the facility, agency, or program.

Evaluating the Safety of the Dependent Adult

If you determine that there is an **immediate risk** to the dependent adult's safety, ask the director or contact person of the facility, agency, or program what steps are going to be taken to address the safety of the dependent adult until the evaluation is completed. Steps may include the following:

- ◆ Placing the alleged perpetrator on leave status (vacation, leave with pay, leave without pay).
- ◆ Assigning the alleged perpetrator to duties that are not client related.
- ◆ Moving the dependent adult to another facility. (Consider this only after consulting the placing worker.) Consider the best interest of the dependent adult and safety issues.

Stress the risk of liability to the director or contact person of the facility, agency or program if there is an unwillingness to take steps to address the safety issues of the dependent adult or other dependent adults receiving care from the facility, agency, or program.

If you and the licensing manager are not satisfied with the way the safety issues were addressed by the facility, agency, or program, submit a written memo to the administrator of the Division of Child and Family Services. Take necessary steps to address the safety of the dependent adult and other dependent adults within the facility or program.

If you determine that there is an **ongoing** risk to the dependent adult's safety, evaluate:

- ◆ The dependent adult's safety and the risk of reoccurrence of abuse after making necessary observations, interviewing witnesses and reviewing documents.
- ◆ The continued risk to the dependent adult and any other dependent adults residing in the same facility, or receiving care from the same agency or program.
- ◆ The safety/risk of other dependent adults accessible to the alleged perpetrator of abuse.

Make your determination by considering the following:

- ◆ Severity of alleged abuse.
- ◆ Corrective measures taken by the facility, agency, or program to provide safety.
- ◆ Services and supports available to the victim.

If you determine that the dependent adult is **not safe** in the current living arrangement, document that in your report and document your efforts to assist in providing safety for the dependent adult.

Disclosure of Abuse History

You may inform a subject of a dependent adult abuse evaluation or assessment that a person is listed on the child or dependent adult abuse registry or is required to register with the sex offender registry. You may do this only if it is determined necessary for the protection of the dependent adult.

If you become aware that someone who has access to a dependent adult is listed on the child or dependent adult abuse registry or is required to register with the sex offender registry, you may disclose that information to subjects of the evaluation or assessment you are conducting. Subjects of an evaluation are the dependent adult; that person's guardian or attorney; the guardian's attorney; the perpetrator and that person's attorney.

Evaluation Contacts

During the evaluation process, evaluate the specific allegation of abuse in the context of the facility, agency or program system. Address:

- ◆ The operation of the facility, agency, or program,
- ◆ The functioning of the alleged dependent adult and the alleged perpetrator, within the system
- ◆ The dynamics of the facility, agency or program, as they relate to the abuse allegation.

The evaluation process may include:

- ◆ A physical inspection of the facility, agency or program.
- ◆ A review of policies, procedures, reports, agency internal assessments, personnel files, the dependent adult's files, incident reports, and medical and mental health examinations.

Dependent adult abuse evaluations in facilities, agencies, or programs provide opportunities for gathering additional information generally not found in a family setting. Observe and interview the alleged dependent adult. Interview the alleged perpetrator or offer the opportunity to be interviewed. Interview people believed to have been in the area when the alleged abuse occurred, other witnesses, and people believed to have knowledge about the alleged abuse.

Keep the primary contact person of the facility, agency, or program informed as to the progress of the evaluation. Keep the alleged perpetrator informed as appropriate.

In the course of an evaluation, additional information or new allegations may surface. Such information or allegations may concern additional dependent adult victims or alleged perpetrators.

If the new information or allegations involve other dependent adults or other caretakers or perpetrators, or are unrelated to the original allegations, you must open **a new separate evaluation for each additional:**

- ◆ Dependent adult victim,
- ◆ Perpetrator, or
- ◆ Unrelated allegation of abuse.

Evaluation and Interview Suggestions

- ◆ Team the evaluation (protective worker and licensing or regulatory worker, law enforcement, long-term care resident's advocate, or other appropriate personnel).
- ◆ Consider tape recording interviews.
- ◆ Verify quotes or statements from interviews (especially of facility, agency, or program employees) before including the quotes or statements in a report.
- ◆ Use expert consultation, as needed.
- ◆ Fully inform the alleged perpetrator of appeal rights.

Interviews

During the evaluation, you must observe the alleged abused dependent adult and interview the person if possible. You must also interview, or at least offer to interview, the alleged perpetrator. Other people you may wish to interview include the following:

- ◆ The alleged perpetrator's supervisor.
- ◆ The agency's administrator.
- ◆ An expert consultant.
- ◆ A family member or guardian.
- ◆ Anyone believed to have been in the area who may have witnessed the alleged abuse.
- ◆ Anyone believed to have knowledge about the alleged abuse, the dependent adult, or the alleged perpetrator.

In **all interviews**, record the following information:

- ◆ The time, place and date the interview was conducted.
- ◆ A description of person interviewed (name, address, age, employment, relationship to subjects if any, etc.).
- ◆ Where the person was at the time of the alleged abuse.
- ◆ What the person actually saw, smelled, or felt.

- ◆ What the person actually heard. Make an effort to obtain actual quotes the person can give of the conversation heard.
- ◆ How long the alleged abuse lasted.
- ◆ What conditions were present that would affect the ability to see or hear (dark, light, background noise, etc.)
- ◆ What other persons were present.
- ◆ What the policies of the facility (agency, program) are concerning the specific situation.
- ◆ What the policy means and whether the person understands it.
- ◆ Whether there was adequate staff coverage at the time of the abuse.
- ◆ Whether the person recorded everything seen, smelled, or felt in an incident report.
- ◆ The names of the person's supervisor and supervisor's supervisor. (Determine whether the person knows specifically what the chain of command is.)

Use the person's style and grammar, as nearly as possible, in documenting the interview.

Handwritten Statements

- ◆ On each page record the time, place, page number and number of pages.
- ◆ Initial and witness any corrections.
- ◆ Always have carryover from one page to the other (page x of y).
- ◆ Sign each page.
- ◆ Include the person's declaration that the statement has been read, that it is complete, and that it is true. ("I have read the above ten pages which contain all the information I know regarding this matter and it is true.")

Recorded Statement

- ◆ The person must acknowledge that the statement is being recorded and consent to the recording.
- ◆ The voice of the person should be clearly identified. ("I am Jane Doe, a protective worker for the Department of Human Services, and you are...")
- ◆ Use a carryover statement for recorded statements that occupy more than one tape. ("This statement will continue on the next tape," and "This is tape number two of a recorded interview between Jane Doe and John Brown taken at 1111 Ninth Street, Suite 380, on February 24, 2002, at 1:30 p.m. That is correct isn't it, Mr. Brown?")
- ◆ Have the person make a closing statement, again acknowledging for the recording, the information provided was given voluntarily, and that the statement is complete and truthful.

Physical and Documentary Evidence

Review written material such as facility, agency, or program logs and medical or mental health records. The facility, agency, or program shall provide copies of pertinent information. (Do not remove originals without the facility, agency, or program's consent, a court order, or a search warrant.) The following is a list of documents you might need to review:

- ◆ The facility, agency, or program logs, including daily, incident, changeover, medication, meal, sleep, night check, control room, and restraint logs. (Not all facilities, agencies, and programs have each type of log.)
- ◆ The dependent adult's case record at the facility, agency or program.
- ◆ The alleged perpetrator's personnel file.
- ◆ The dependent adult's placement worker file.
- ◆ The incident report developed by the facility, agency, or program.
- ◆ The facts and findings of any internal investigation conducted.
- ◆ The in-service training plans for the alleged perpetrator and for other service staff.
- ◆ The facility, agency or program's admission criteria, policies and procedures.
- ◆ The facility, agency or program's licensing or registration standards and any current noncompliance issues.

Observe objects such as restraints, handcuffs, and weapons (such as a knife wielded by an out of control dependent adult).

You may take photographs of injuries, living arrangements or other relevant items. Inform the facility, agency or program before taking photographs.

Use of Physical Restraints

Each program has specific criteria regarding use of restraints. Typically, restraint is justified when a dependent adult is out of control or a danger to self or others. For specific regulations governing each specific program, see the charts under [Regulatory Authorities](#). Ask the licensing manager or other policy personnel for assistance in locating specific policy.

Note: Minor injuries resulting from properly administered physical restraint are not dependent adult abuse. Corporal punishment is not permitted in facilities, agencies, or programs. The questions below will help determine if physical restraint was properly administered.

Suggested questions to be considered to determine if restraints were improperly used include, but are not limited to the following:

- ◆ Was the behavior displayed by the dependent adult before the restraint likely to result in injury to the dependent adult, other persons, or to property?

Describe the incident and the dependent adult's behavior during the restraint. Restraint may not be used as corporal punishment. Examples of behavior which justify restraints include:

- Inciting others to insurrection.
- Displaying uncontrolled physical behavior which may result in injury to self, others, or property.
- Behavior which in itself prevents the normal operation of the facility, agency or program, such as if the safety of other persons is endangered.

Simple refusal to follow directions which does not involve injury to self, others, or property; failure to follow programming; or failure to follow facility, agency or program rules would not be considered to be examples of disruptive behavior.

- ◆ Were other less restrictive methods used to calm the dependent adult before restraint was used?

Facilities, agencies and programs are generally required to use a variety of methods to attempt to de-escalate the situation. Possible methods may include:

- Gestural redirecting
- Physical restraint
- Mechanical restraint
- Verbal command
- Blocking
- Physical redirection

Determine whether or not the least restrictive measures (as appropriate) were used to de-escalate the dependent adult's behavior, and that those measures failed to adequately control the behavior.

- ◆ Was the restraint justified and applied appropriately by staff?

Determine if the restraint was justified by the dependent adult's behavior and within policy limits. Determine if the restraint was abusive in intent or application.

- ◆ Was the restraint method used appropriate to the type of facility, agency, or program in which the dependent adult was placed?

Secure facilities may use physical restraints, control rooms, locked cottages, mechanical restraints, or chemical restraints. Non-secure facilities may use control room or physical restraints. The designation of “secure” vs. “non-secure” facilities is established by the facility’s license.

- ◆ Were the reported injuries suffered by the dependent adult consistent with the application of reasonable and properly applied physical restraint?

Restraint injuries are generally not serious and involve minor scrapes and scratches. They may involve bruises if the resident displayed very resistant behavior or was self-abusive before or during the restraint episode.

- ◆ Does the dependent adult’s account of the incident correspond with appropriately applied physical restraint?

You may obtain this information through the reporter’s statement or independent assessment by the placing caseworker.

- ◆ What does the dependent adult’s individual program plan state in regards to restraints prescribed by the dependent adult’s physician?

If the facility, agency or program states that restraints were prescribed by the client’s physician, the client case file should have a detailed individual program plan intended to lead to less restrictive means of managing and eliminating the behavior for which the restraint is prescribed.

- ◆ Were drugs used as restraints with the attending physician’s written prescription?

Using drugs to control inappropriate behavior will have the approval of the attending physician and will be supported with records in the facility, agency, or program client case file.

Using drugs to control inappropriate behavior will only be used as an integral part of the client’s individual program plan that is directed specifically toward the reduction and eventual elimination of the behaviors for which the drugs were employed.

Drugs used for control of inappropriate behavior may not be used unless it can be justified that the harmful effects of the behavior clearly outweigh the potentially harmful effects of the drugs.

FACILITY, AGENCY OR PROGRAM POLICIES

In the course of conducting an evaluation of alleged abuse in a facility, agency, or program, it is necessary to determine if the following are contributing factors to the abuse of dependent adults:

- ◆ [Policy and programming](#)
- ◆ [Staffing practices](#)
- ◆ [Training](#)

Policy and Programming

Evaluate the policies and programming of the facility, agency, or program to determine if policies or lack of policies contributed to or caused the alleged abuse. Determine if the policies appropriately address the following:

- ◆ Programming that is needed for the population served.
- ◆ Up to date care plans and direction to staff on how to provide care for patients or clients.
- ◆ Procedures for managing problems, physical restraints, or physically abusive patients or clients.
- ◆ Grievance and complaint policies for patients, clients, or relatives of patients or clients.
- ◆ Emergency policies.
- ◆ Policies for reporting abuse.
- ◆ Policies for reporting, and maintenance system, for hazardous conditions on grounds, building, and equipment, including vehicles.
- ◆ Policies on safekeeping, transporting and dispensing of medications.
- ◆ Policies on written communications.

Staffing Practices

Consider the staffing practices when evaluating an allegation of abuse in a facility, agency, or program. Determine if the staffing practices appropriately address the following:

- ◆ Adequate staffing ratio and coverage requirements, including contingency plans for staff absences, emergencies, and assignment of new employees.
- ◆ Staff receive adequate training before being left alone with difficult patients or clients.
- ◆ Staff job descriptions, behavioral guidelines and expectations, evaluations, corrective or disciplinary actions and grievance policies.
- ◆ Staff orientation and ongoing training plans.
- ◆ Supervision of all levels of staff, including chain of command for the facility, agency or program, according to the table of organization, is clear to all staff.
- ◆ Required written communications are complete and adequate.
- ◆ Criminal and abuse background checks are conducted on staff.

Training

Consider the following when evaluating an allegation of abuse in a facility, agency or program.

- ◆ Are the training requirements adequate for:
 - Non-violent crisis intervention.
 - Directing a patient or client who requires assistance.
 - Redirecting a patient who is exhibiting behavior, which could hurt someone.
 - Handling a medical emergency.
 - Providing care without hurting patients and clients. (how to lift, bathe, turn a person, etc.)
 - Reporting abuse and responsibilities and liabilities under the dependent adult abuse law.
 - Physically restraining a person without hurting the person.
- ◆ How may facility, agency or program policy and programming, staffing practices and training have contributed to or been responsible for the abuse?

Document your findings in the report.

DETERMINING REPORT CONCLUSIONS

When you formulate your conclusion:

- ◆ Review all information that relates to making a finding for the type of abuse that was alleged (including accumulated evidence and manual guidelines).
- ◆ List the factors and supporting evidence for each factor in the “CONCLUSIONS” section of the report.

As in any other dependent adult abuse evaluation, all factors must be present in order to found a dependent adult abuse report. There must be:

- ◆ A dependent adult.
- ◆ A caretaker.
- ◆ An incident that meets the definition of one of the types of dependent adult abuse:
 - Physical abuse
 - Sexual abuse
 - Denial of critical care
 - Self-denial of critical care
 - Exploitation
 - Sexual exploitation by a caretaker

A violation of program policy or procedure does not automatically result in a “founded” conclusion. For detailed instructions on determining conclusions for all allegations of dependent adult abuse, see 16-G-Appendix, [Dependent Adult Abuse Evaluation Handbook, Comm. 96](#).

Determine whether each allegation in the report is:

- ◆ **Founded**, which means that it has been determined by a preponderance of evidence (greater than 50%) that abuse has occurred.
- ◆ **Unfounded**, which means that it has been determined by a preponderance of evidence (greater than 50%) that dependent adult abuse has not occurred.
- ◆ **Confirmed, not registered**, which means physical abuse or denial of critical care caused by a caretaker that is determined by a preponderance of evidence (greater than 50%) has occurred, but is minor, isolated and unlikely to reoccur.

Chain of Command

There may be situations in which the actions of a staff person resulted in abuse. However, the actual cause of the abuse may be the results of the facility policy, lack of policy, or supervisory direction.

In certain situations, the perpetrator may be the direct caregiver or someone in the chain of command. In addition to direct care staff, supervisors, management staff, and administrators have caretaker responsibilities and can be named as a caretaker responsible for abuse in a dependent adult abuse report.

When conducting the evaluation, you may determine someone in a position of authority should be identified as the perpetrator (such as a supervisor, director of nursing, director or administrator) because that person:

- ◆ Was aware of the abuse and did not respond to it, or
- ◆ Implemented policies which were conducive to abuse, or
- ◆ Directed employees to commit acts that caused abuse.

Determine who was responsible for the care of the dependent adult at the time of the alleged abuse:

- ◆ Was the person responsible for the care following orders?
- ◆ Did the person take reasonable measures to protect the dependent adult?
- ◆ Was the dependent adult left in a high-risk situation without protection?
- ◆ Did the abuse happen more than once?
- ◆ Did the person have the authority or ability to intervene to protect the dependent adult?
- ◆ Did the person respond in a reasonable fashion?

- ◆ Did the person participate or implement the act that resulted in abuse of the dependent adult?
- ◆ Does the alleged abuse meet the definition of dependent adult abuse?
- ◆ Did the person know about the abuse?
- ◆ Did the person direct another employee to commit an act that caused abuse to a dependent adult?

There must be clear and specific documentation that each person you determine to be responsible for the abuse either:

- ◆ Knew about the abuse and did not intervene, or
- ◆ Caused the abuse to occur, or
- ◆ Directed another employee to commit acts that resulted in abuse of the dependent adult.

Only a person (known or unknown) may be named as a perpetrator, not a facility, agency or program. To found within the chain of command for a facility, agency, or program, you must establish the direct supervisor, director of nursing, director, or administrator either:

- ◆ Knew about the abusive situation and failed to respond to it, even though having the authority to do so.
- ◆ Implemented policies which were conducive to abuse.
- ◆ Directed other employees to commit acts that caused abuse.

Consult your supervisor when you consider if the person or policy responsible for the abuse is other than the direct caretaker.

Service Recommendations

Evaluate the dependent adult's support systems and ability for self-protection in current living arrangement.

Make recommendations for any action viewed as necessary or advisable to protect the dependent adult, based on the dependent adult's ability to receive adequate care in a safe environment.

Make recommendations for any action viewed as necessary or advisable to protect other dependent adults who reside in the facility or receive care from the agency or program.

Court Recommendations

State your recommendations for criminal or civil court actions pertaining to the case. Specify the type of intervention recommended, such as the need for a guardian or conservator or criminal charges. Document the rationale for the recommendations.

CLOSURE MEETING

Upon completion of your evaluation, schedule a closure meeting with the facility, agency, or program. You, your supervisor, and the administrator or director or with that person's designee must be included. You may also consider including in the meeting:

- ◆ Relevant regulatory personnel (licensing manager, certification manager, program specialists, etc.).
- ◆ DHS area service administrator (if appropriate).
- ◆ DHS service worker or other case manager.

The purpose of the meeting is to exchange information regarding the findings of the dependent adult abuse evaluation. Because of confidentiality, specific information concerning the subjects of the report may not be discussed. It is also the purpose to discuss any concerns identified regarding policy and practice along with the outcomes of the facility, agency, or program's internal investigation.

It may be possible to accomplish the purpose of the closure meeting with a phone call, if there are no or few policy or procedure issues.

EVALUATION REPORT AND NOTICES

Complete and submit the *Dependent Adult Abuse Report*, form 470-0688, as in any other dependent adult abuse report. (See 16-G, [Report](#), for specific direction on completing dependent adult abuse reports.)

Verbally notify the subjects of the report and the mandatory reporter of the results of the evaluation. Send copies of form 470-2444, *Adult Protective Notification*, to the mandatory reporter and the subjects of the report. The notification will include information regarding confidentiality provisions, the procedures for correction or expungement, and appeal rights.

Notice to Facility

You must also send a notice to the facility for any evaluation in which you find problems with facility, agency or program policy or practice, regardless of whether the dependent adult abuse allegations are founded or unfounded.

Prepare a letter that includes sufficient information to identify the problem areas. Do not include any personally identifiable information about the subjects of the evaluation. Include in the letter information concerning any of the following that you discovered during your evaluation:

- ◆ An incidence in which the facility, agency or program policy or lack of policy may have contributed to the alleged dependent adult abuse.
- ◆ An incidence in which general practice in a facility, agency or program appears to differ from the facility, agency or program's written policy.
- ◆ An incidence in which the facility, agency or program policy or practice appears to be in violation of licensing, certification, or registration standards.

Both you and your supervisor will sign the notice to facility letter. Send it to all of the following:

- ◆ The governing body of the facility, agency or program (usually a board of directors).
- ◆ The administrator of the facility, agency or program.
- ◆ The licensing authority for the facility, agency, or program.

To determine the licensing authority or governing body for the facility, agency, or program, contact the facility, agency or program administrator, who will provide that information.

Address the letter to the administrator of the facility, agency, or program, with copies to the licensing agent and governing body. Be sure to de-identify all information in the letter so the identities of the subjects of the report are not revealed. The purpose of the letter is to point out problems with policy and procedure that may be addressed by the administrator, licensing authority, and governing body.

Rather than writing only about the abuse, list the types of violation of policy or procedure, or lack of policy or procedure that contributed to the abuse incident. Cite specific Iowa Code or Iowa Administrative Code violations that you observed.

Make recommendations for any action viewed as necessary or advisable to protect dependent adults who reside in the facility or receive services from the agency or program. Base the recommendations on information you obtain during the evaluation.

Because information in the notice to facility may affect the licensure of the facility, agency, or program, provide sufficient information to support observations and recommendations.



STATE OF IOWA

CHESTER J. CULVER, GOVERNOR
PATTY JUDGE, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
CHARLES J. KROGMEIER, DIRECTOR

[Date]

[Name], [Director or Administrator]
[Facility, Agency or Program Name]
[Address]
[Town], IA [Zip Code]

Dear [Name]:

I recently completed a dependent adult abuse evaluation involving an employee [facility, agency or program name]. It appears that facility [or agency or program] policy or lack of policy may have contributed to an alleged incidence of dependent adult abuse, or general practice appears to differ from the facility's [agency or program] policy.

Areas of Concern:

[In paragraph form, clearly write each of the elements of concern found during the evaluation, making sure to point out which of the categories of concern relates to the abuse. Include observations and specific facility, agency or program policy. When applicable, site licensure, certification, or registration violations.]

Recommendations:

[Make recommendations for facility, agency or program action that is necessary or advisable to protect dependent adults in the facility, agency or program. Relate recommendations to specific concerns or groups of concerns. Organize the recommendations so they are clearly understood.]

Sincerely,

[Your name]

[Your supervisor]

cc: [Board president]
[Licensing agent]
[Bureau Chief or other policy person]

Rights of People With a Founded Dependent Adult Abuse Record

A subject of a dependent adult abuse record may request a correction or expungement of the report and an administrative appeal hearing through DHS. (See Employees' Manual, 16-G, [Reviews and Administrative Appeals](#), for details on appealing a dependent adult abuse report.)

Form 470-2444, *Adult Protective Notification*, clearly states the rights of subjects of dependent adult abuse reports. (See 16-G-Appendix, [Adult Protective Notification, Form 470-2444](#), for a sample of this form.)

Subjects of reports may request a correction or expungement of the report. The subject must send a written and signed statement that explains why the person disagrees with the findings in the report to the Department of Human Services, Appeals Section, 5th floor, 1305 E. Walnut, Des Moines, IA 50319-0114.

The request must be sent within six months of the date of the notification. Local office staff may review the report. A subject who is not satisfied with the decision of the appeal hearing may take the appeal to the district court and pursue the case through the court system.

Record Check Evaluation for Employment in Health Care Facility, Agency or Program

Having a record of founded dependent adult abuse will affect the employability of a person who wants to provide care to a dependent adult in Iowa.

- ◆ Health care facility employers have been subject to this requirement since 1997. (Iowa Code, Section 135C.33, "Child or dependent adult abuse information and criminal records – evaluation – application to other providers.")
- ◆ Since 1998, employers have been required by law to conduct a criminal and dependent adult abuse background check on all persons seeking employment in any health care agency or program.

A facility, agency, or program administrator may request a record check evaluation on a person with a dependent adult abuse record, who seeks employment. Central office DHS staff conduct record check evaluations to determine if the person may be employed even though the person has a criminal or abuse background.