



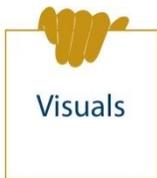
45 Minutes



Mandatory Reporters



Persons Required to Report



Mandatory Reporters Shall

07 Reporting Suspected Abuse

1. Mandatory Reporters

Mandatory reporters are required to complete a minimum of two hours of training on dependent adult abuse within six months of employment and every five years thereafter.

Community - DHS 235B.3(2)

- A. **Mandatory Reporting.** Iowa law dictates that certain professionals are obligated to report suspected abuse, **Iowa Code 235B.3(2)**. A person who, in the course of employment, examines, attends, counsels, or treats a dependent adult and reasonably believes the dependent adult has suffered abuse, shall report the suspected dependent adult abuse to the department.

Persons required to report include all of the following:

1. A member of the staff of a community mental health center;
2. A peace officer;
3. An in-home homemaker-home health aide;
4. An individual employed as an outreach person;
5. A health practitioner;
6. A member of the staff or an employee of a supported community living service, sheltered workshop, or work activity center;
7. A social worker;
8. A certified psychologist

Iowa Administrative Code 441—176.4

176.4(1) Mandatory reporters shall:

1. Report suspected abuse of a dependent adult within 24 hours of becoming aware of an abusive incident.
2. Make a written report within 48 hours after an oral report.

176.4(2) The reporter may use the department’s Form 470-2441, Suspected Dependent Adult Abuse Report, or any other a form that meets the requirements of Iowa Code section 235B.3.

176.5(2) The report shall be made by telephone or otherwise to the department of human services. When the person making the report has reason to believe that immediate protection for the dependent adult is advisable, that person **shall** also make an oral report to an appropriate law enforcement agency.

NOTE: If someone needs immediate protection, dial 911.



235B.3(3)(b)

- B. **235B.3 (3)(a)** If a staff member or employee is required to report pursuant to this section, the person shall immediately notify the department and shall also immediately notify the person in charge or the person's designated agent.
- C. **235B.3 (3)(b)** The employer or supervisor of a person who is required to or may make a report pursuant to this section shall not apply a policy, work rule, or other requirement that interferes with the person making a report of dependent adult abuse or that results in the failure of another person to make the report.



Reporting Procedures

D. Reporting Procedures

Reports of suspected abuse in the community **shall** be made to the local Department of Human Services (DHS) offices, or **800/362-2178**. The local phone numbers and fax numbers can be found at the DHS website:

www.dhs.state.ia.us/#

Click on “Public Information” Click on “Contact Us”

THIS CONCLUDES CHAPTER 235B

Facilities & Programs – DIA 235E.2



Mandatory Reporting

- A. **Mandatory Reporting.** Iowa law dictates that certain professionals are obligated to report suspected abuse. **Iowa Code 235E.2(2)** A staff member or employee of a facility or program who, in the course of employment, examines, attends, counsels, or treats a dependent adult in a facility or program and reasonably believes the dependent adult has suffered dependent adult abuse, shall report the suspected dependent adult abuse to the department.

Iowa Administrative Code 481—52.1

1. **Staff Member** means an individual who provides direct or indirect treatment or services to residents in a facility or program. Direct treatment or services include those provided through person-to-person contact.
 2. **Direct Treatment or Services** include those provided through person-to-person contact.
 3. **Indirect Treatment or Services** include those provided without person-to-person contact such as those provided by administration, dietary, laundry, and maintenance.
 4. Specifically excluded from the definition of “staff member” are individuals such as part-time volunteers, building contractors, repair workers or others who are in a facility or program for a very limited purpose, are not in the facility or program on a regular basis, or do not provide any treatment or services to the residents of the facility or program.
- B. **Iowa Code 235E.2(3)(a) & IAC 481-52.2(2)(a) & (b)** If a staff member or employee is required to make a report pursuant to this section, the staff member or employee shall immediately notify the person in charge or the person's designated agent who shall then notify the department within 24 hours or the next business day of such notification. If the person in charge is the alleged dependent adult abuser, the staff member shall directly report the abuse to the department within 24 hours or the next business day.



235E.2(3)(a)

C. **IAC 481–52.2(2)(c)** Nothing in this subrule prevents a mandatory reporter or any other person from notifying the department directly of any suspected abuse.

D. **Iowa Code 235E.2(3)(b) & IAC 481-52.2(2)(d)** The employer or supervisor of a person who is required to or may make a report pursuant to this section shall not apply a policy, work rule, or other requirement that interferes with the person making a report of dependent adult abuse or that results in the failure of another person to make the report.



235E.2(3)(b)

E. **IAC 481-52.2(2)(e)** When the person making the report has reason to believe that immediate protection for the dependent adult is advisable, that person should also immediately make an oral report to an appropriate law enforcement agency.

F. **Reporting Procedures** Incidents of abuse in facilities or programs are investigated by the Department of Inspections and Appeals (DIA).



**Reporting
Procedures**

Reports can be registered with DIA through one of the following methods:

- Call the toll free complaint intake line: **(877) 686-0027**
- Fax the report to **(515) 281-7106**
- Via the internet using the online form at https://dia-hfd.iowa.gov/DIA_HFD/Process.do
- Submit by regular mail to:

Iowa Department of Inspections and Appeals
Health Facilities Division/Complaint Unit
Lucas State Office Building, 3rd Floor
321 East 12th Street
Des Moines, Iowa 50319-0083

THIS CONCLUDES CHAPTER 235E

2. Immunity from Liability (235B.3(10) & 235E.2(7)):



Immunity from Liability

A person participating in good faith in reporting or cooperating with or assisting the department in evaluating a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participating in good faith in a judicial proceeding resulting from the report or cooperation or assistance or relating to the subject matter of the report, cooperation, or assistance.

3. Legal Responsibilities, Rights and Sanctions – Mandatory Reporters



Legal Responsibilities

A. Responsibilities

- Shall report suspected dependent adult abuse orally AND in writing
- Shall complete two hours of training within six months of initial employment and 2 hours every 5 years thereafter [Iowa Code 235B.16(5)(b)]
- Must report to law enforcement if immediate protection of dependent adult is advisable
- Must cooperate with DHS and/or DIA

B. Rights

- To receive a copy of the notice of finding of the report
- To request and receive a copy of the report for founded and unfounded incidents. (Iowa Code 235B.6(2)(b)(6) and 235B.6(3) respectively)
- Immunity from liability civil or criminal [(Iowa Code 235B.3(10)]
- To remain anonymous when the disclosure of the reporter's identity would be detrimental to the person's interest. [441 IAC 176.10(3)]



Rights

C. Sanctions (Iowa Code 235B.3(12), 235E.2(9) & IAC 481-52.2(4))



Sanctions

- A person required by this section to report a suspected case of dependent adult abuse who knowingly and willfully fails to do so (within 24 hours [IAC 481-52.2(4)]) commits a simple misdemeanor.
- A person required to report a suspected case of dependent adult abuse who knowingly fails to do so or who knowingly interferes with the making of such a report or applies a requirement that results in such a failure is civilly liable for the damages proximately caused by the failure.

NOTE: HIPAA prevents the release of information about patients to anyone other than the legal representative of the patient. In cases of suspected abuse, HIPAA waives this rule and state law mandates such reports are made. [45 CFR 164.512]



Permissive Reporters

4. Permissive Reporters & Procedures

A permissive reporter can be a mandatory reporter who is acting **outside** of their employment in making their report. A permissive reporter is also **anyone** who believes a dependent adult has suffered abuse. This includes the general public.

IAC 441-176.5(1) & (2) states each report made by someone other than a mandatory reporter may be oral or written.



Reporting Suspected Dependent Adult Abuse DHS

5. Reporting Suspected Dependent Adult Abuse to DHS (Iowa Code 235B & IAC 471-176)

When dependent adult abuse is suspected an oral report must be made within 24 hours **and** a written report must be made within 48 hours. Remember the timeframe is when you first suspect abuse, not necessarily when the abuse may have taken place.

NOTE: The following forms that will be discussed may be found in the participant handouts.



DHS Forms

DHS Reporting

A. **DHS Intake Form 470-0657 (Oral Report)** Use this as a guide for the information the intake worker will be asking during the oral report. Complete the form as much as possible and refer to abuse indicators and examples provided in the handouts. Take care to include:

- Name and address of dependent adult
- Names of all parties involved
- Reasons dependency is suspected
- Name of alleged perpetrator / caretaker
- What type of abuse is suspected
- Why you suspect abuse

B. **Dependent Adult Abuse Notice of Intake Decision Form 470-3944**

This form will be sent to the mandatory reporter indicating whether the report was accepted for referral or rejected. Typically the form is received within 10 days.

C. **Suspected Dependent Adult Abuse Report Form 470-2441 (Written Report)**

Within 48 hours of the oral report a written report shall be submitted.

1. **Suggestion:** Within the 24 hours requirement, complete the written report and then make the oral report. On the written report, note the date and time the report is made as well as the name of the individual receiving the report. Ask the intake worker for the fax number and indicate the written report will be faxed as soon as the oral report is complete. This will assist DHS in getting a more clear picture of the situation.

The written report presents, in detail, reasons for concern. It can

reinforce the oral report and ensure all the information shared was recorded accurately. It is wise to maintain copies of these forms in a secured confidential file.

2. **Completing the Report**

REPORT INFORMATION: If the victim does not have a phone or cannot use a phone, or has communication issues note such on the form (and during your oral report). Make sure the address and phone number is correct. If a rural or hard to find location, directions to the home would be helpful.

- a. **Person is dependent because:** Review the definition of dependency and word statements in alignment with the definition. Use portions of the actual definition within the report if applicable and customize with the victim's dependency issues. Such as what physical/mental limitations does the victim have which make them dependent upon others for assistance AND how does the dependency relate to the suspected abuse? Such as, Mrs. Smith is wheel chair bound and cannot make transfers without the assistance of others nor can she safely exit her home without assistance from others in the event of an emergency.
- b. **Type of abuse noted:** Check all that apply.

Information about the suspected abuse: Attach additional pages to thoroughly present the issues. Include any information, including photographs, which will assist the DHS protective worker.

- c. **Caretaker:** If more than one caretaker is involved, list them on a separate attached page, answering the requested form questions.

REPORTER INFORMATION: Fully complete this section so the DHS protective worker may contact you for

further information and to send you information regarding this report.

3. **Submit:** Make a copy and submit the report or preferably, fax it to the local DHS office after making the oral report.

NOTE: If you know of other mandatory reporters who are aware of the abuse situation, let them know you are or have made a report and they are listed as collateral sources attaching additional sheets of paper if necessary. However, being listed as a collateral source in another's written or oral report, does not meet the requirements of the other mandatory reporters reporting the same situation.

D. **Adult Protective Notification 470-2444**

As a mandatory reporter DHS is required to notify you in writing as to what action was taken regarding your report. If you should disagree with the report, the notice provides information on how to appeal.

NOTE: If you wish to receive a copy of the unfounded or founded report (highly recommended), complete the form on the back of this notification and return it to DHS.

6. **Reporting Suspected Dependent Adult Abuse to DIA (Iowa Code 235E & IAC 481-52)**

When dependent adult abuse is suspected an oral report must be made within 24 hours or the next business day. In addition, federal law requires that a written report must be made within 5 days. Remember the timeframe begins when you first suspect abuse.

- A. **IAC 481-52.2 (2) (f)** A report of suspected dependent adult abuse shall contain as much of the following information as the person making the report is able to furnish:
 1. The date and time of the incident;
 2. The name, date of birth and diagnoses of the dependent adult;
 3. Whether the dependent adult sustained an injury and, if yes, whether photographs of the injury were taken;



Reporting Suspected Dependent Adult Abuse DIA



DIA Forms

4. The nature and extent of the dependent adult abuse, including evidence of previous dependent adult abuse allegations;
5. A list of the staff members working at the time of the incident, including each staff member's full name, title, date of birth, address and telephone number;
6. The alleged perpetrator's full name, title, date of birth, social security number, address and telephone number;
7. Other information which the person making the report believes might be helpful in establishing the cause of the abuse or the identity of the person or persons responsible for the abuse or helpful in providing assistance to the dependent adult; and
8. The name, address and telephone number of the person making the report.

B. **IAC 481-52.2(3)** A report shall be accepted whether or not it contains all of the information requested. When the report is made to any agency other than the department, that agency shall promptly refer the report to the department.

C. **Reports can be registered with DIA through one of the following methods:**

- Call the toll free complaint intake line: **(877) 686-0027**
- Fax the report to **(515) 281-7106**
- Via the internet using the online form at
https://dia-hfd.iowa.gov/DIA_HFD/Process.do
- Submit by regular mail to:

Iowa Department of Inspections and Appeals
Health Facilities Division/Complaint Unit
Lucas State Office Building, 3rd Floor
321 East 12th Street
Des Moines, Iowa 50319-0083



**Medicaid &
Medicare
Fraud**

NOTE: **Medicaid Fraud:** If you suspect Medicaid Fraud, call: (515) 281-5717 or (515) 281-7086
Medicare Fraud: If you suspect Medicare Fraud, call 800-447-8477 or email HHSTips@oig.hhs.gov

- D. **Separation of Victim and Alleged Abuser (Iowa Code 235E.2(10) & IAC 52.6)** The facility or program shall separate the victim and the alleged abuser immediately and shall maintain that separation until the department's abuse investigation is completed and the abuse determination is made.

NOTE: Facilities that participate in the federal Medicare or Medicaid program may be subject to additional federal requirements regarding separation.



Evaluation Process

7. The Evaluation Process

There are four types of jurisdiction over the formal evaluation/investigation of alleged dependent adult abuse cases.

- A. **DHS.** For abuse that occurs in the community, the Department of Human Services is responsible to respond with an evaluation/assessment of the situation.
- B. **DIA.** For abuse that occurs in a facility or program (hospital, long-term care, assisted living, elder group home, adult day services, etc.), the Department of Inspections and Appeals is responsible for conducting an investigation.
- C. **Law Enforcement.** When the abuse constitutes a crime, law enforcement must be notified and conduct its own investigation.
- D. **Joint Investigations.** Sometimes, a situation may involve dependent adult abuse and a criminal offense. In those instances, parallel investigations are conducted by DHS (community) or DIA (facility or program) and the local law enforcement agency.



Report Conclusions

8. Report Conclusions

The assessment / evaluation has three possible outcomes: *founded*, *unfounded*, or *confirmed, not registered*.

- A. **Founded.** Requires a preponderance of evidence (51% or greater) that abuse has occurred. Founded reports remain on the Central Abuse Registry for 10 years from the date of the last founded report.

B. **Unfounded.** Requires a preponderance of evidence (51% or greater) that abuse has not occurred.

C. **Confirmed, Not Registered**

1. **Under 235B (DHS)** A report of dependent adult abuse that meets the definition of physical abuse or denial of critical care to a dependent adult by a caretaker which the department determines is minor, isolated, and unlikely to reoccur shall be collected and maintained by the department as an assessment only for a five-year period and shall not be included in the central registry and shall not be considered to be founded dependent adult abuse. However, a subsequent report of dependent adult abuse that meets the definition of physical abuse or denial of critical care by a caretaker that occurs within the five-year period and that is committed by the caretaker responsible for the act or omission which was the subject of the previous report of dependent adult abuse which the department determined was minor, isolated, and unlikely to reoccur shall not be considered minor, isolated, and unlikely to reoccur.

2. **Under 235E (DIA) IAC 481-52.3(3)(a) & (b)** Reports of Abuse that is minor, isolated, and unlikely to reoccur.

a. **Minor, isolated, and unlikely to reoccur – first instance.** A report of dependent adult abuse that meets the definition of physical abuse assault, unreasonable confinement, unreasonable punishment, or neglect of a dependent adult which the department determines is minor, isolated, and unlikely to reoccur shall be collected and maintained by the department of human services for a five-year period, shall not be included in the central registry and shall not be considered to be founded dependent adult abuse.



Confirmed, Not Registered

- b. Minor, isolated, and unlikely to reoccur – subsequent instance(s). A subsequent report of dependent adult abuse that meets the definition of physical abuse, assault, unreasonable confinement, unreasonable punishment, or neglect of a dependent adult that occurs within the five-year period, and that is committed by the same caretaker may also be considered minor, isolated, and unlikely to reoccur depending on the totality of circumstances.



Appeals of Dependent Adult Abuse Reports

9. Appeals of Dependent Adult Abuse Reports under 235B and 235E 235B (DHS)

With the exception of nurse aides, any subject of a report (or that person's attorney) may request an appeal within 6 months from the date of the notice of the finding (Iowa Code 235B.10). Subjects of a report are:

- The dependent adult
- The dependent adult's guardian or attorney
- Individual responsible for the abuse
- The attorney for the individual responsible for the abuse

A nurse aide who is the subject of a report may request a hearing within 30 days from the date of the notice of the finding. (IAC 441 – 81.16(6))

235E (DIA)

If a request for an appeal is filed by a caretaker within fifteen (15) days of the issuance of the notice of a founded determination of dependent adult abuse, DIA shall not place the caretaker on the central abuse registry until final agency action is taken.

If a caretaker fails to request an appeal of a founded determination within fifteen (15) days, the caretaker shall have sixty (60) days from the issuance of the written notification of the abuse findings to file an appeal pursuant to chapter 17A.

Under 235E, appeals of determinations other than founded, 235B.10 applies



Criminal & Abuse Background Checks

10. Criminal and Abuse Background Checks (135C.33)

All facilities and agencies that provide care to dependent adults must complete criminal and abuse background checks on prospective employees. If the applicant has a criminal or abuse background, the employer may request a records check evaluation be completed by DHS, to determine if the person may be employed even though there is the criminal or abuse background.

When evaluating criminal or abuse backgrounds to determine employability, DHS considers the following:

- The nature and seriousness of the crime or founded child or dependent adult abuse in relation to the position sought or held;
- The time elapsed since the commission of the crime or founded child or dependent adult abuse;
- The circumstances under which the crime or founded child or dependent adult abuse was committed;
- The degree of rehabilitation;
- The likelihood the person will commit the crime or founded child or dependent adult abuse again; and
- The number of crimes or founded child or dependent adult abuses committed by the person involved.

If you suspect Medicaid or Medicare Fraud

Medicaid Fraud: Call (515) 281-5717 or (515) 281-7086

Medicare Fraud: Call 800-447-8477 or email HHSTips@oig.hhs.gov

11. Prevention Of Additional Abuse -- Notification of Rights (Iowa Code 235B.3A) (Briefly Summarize)

235B.3A If a peace officer has reason to believe that dependent adult abuse, which is criminal in nature, has occurred, the officer shall use all reasonable means to prevent further abuse, including but not limited to any of the following:

- A. If requested, remaining on the scene as long as there is a danger to the dependent adult's physical safety without the presence of a peace officer, including but not limited to staying in the dwelling unit, or if unable to remain at the scene, assisting the dependent adult in leaving the residence and securing support services or emergency shelter services.

- B. Assisting the dependent adult in obtaining medical treatment necessitated by the dependent adult abuse, including providing assistance to the dependent adult in obtaining transportation to the emergency room of the nearest hospital.
- C. Providing a dependent adult with immediate and adequate notice of the dependent adult's rights. The notice shall consist of handing the dependent adult a copy of the following written statement, requesting the dependent adult to read the card and asking the dependent adult whether the dependent adult understands the rights:
 - 1. You have the right to ask the court for the following help on a temporary basis:
 - a. Keeping the alleged perpetrator away from you, your home, and your place of work.
 - b. The right to stay at your home without interference from the alleged perpetrator.
 - c. Professional counseling for you, your family, or household members, and the alleged perpetrator of the dependent adult abuse.
 - d. If you are in need of medical treatment, you have the right to request that the peace officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.
 - e. If you believe that police protection is needed for your physical safety, you have the right to request that the peace officer present remain at the scene until you and other affected parties can leave or safety is otherwise ensured.

The notice shall also contain the telephone number of the local emergency shelter services, support services, or crisis lines operating in the area.



Adult Abuse is a Crime

12. Dependent Adult Abuse is a Crime

NOTE: Point out to participants that the perpetrator’s action or inaction may still be considered a crime if all elements of dependent adult abuse cannot be met or proven.

Example: Dependent adult abuse by financial exploitation may not meet the criteria if the perpetrator is not a caretaker. However it may fall under theft or extortion in the criminal code section.

- A. Criminal actions can be tried as Dependent Adult Abuse under Iowa Code 235B (effective July 1, 1996). Refer to the **Participant’s Handbook** for details.
- B. Other criminal charges which may be used to pursue dependent adult abuse include:

- | | |
|---------------------------------|---|
| 1. Assault | 10. Manslaughter |
| 2. Neglect or Abandonment | 11. Theft (degree depends on value of property taken) |
| 3. Wanton Neglect or Nonsupport | 12. Extortion |
| 4. Sexual Abuse | 13. Robbery |
| 5. Detention in a Brothel | 14. Burglary |
| 6. Indecent Exposure | 15. Forgery |
| 7. Incest | 16. Embezzlement |
| 8. Fraud | |
| 9. Murder | |

Offenders convicted of lesser crimes (misdemeanors) can serve up to two years in prison. Felons may serve up to fifty years. For a complete listing of sentences, please refer to the visual.

- C. **Review 726.7** - Wanton neglect of a resident of a health care facility & **726.8** - Wanton neglect or nonsupport of a dependent adult. These laws are both in the criminal Code section and address emotional / psychological abuse.



726.7 and 726.8