FREQUENTLY ASKED QUESTIONS
DEPENDENT ADULT ABUSE RULES
481 IOWA ADMIN. CODE CH. 52

Q1: What is the difference between Iowa Code Chapter 235E and DIA Chapter 52?
RESPONSE: Chapter 52 contains the administrative rules that implement Iowa Code chapter 235E.

Q2: Do the Chapter 52 administrative rules encompass Iowa Code chapters 235B and 235E?
RESPONSE: Chapter 52 rules address dependent adult abuse in facilities and programs, and implement Iowa Code chapter 235E.

Q3: Does the definition of dependent adult mean ALL elderly residing in SNF, NF, RCF, AL, etc?
RESPONSE: No, the definition does not include all adults in programs or facilities. NOTE: The mandatory abuse reporting requirements state that all suspected abuse must be reported, so a determination of dependency is not necessary prior to reporting.

Q4: Does a person have to legally reveal that they are being investigated for abuse during the application/interview process?
RESPONSE: No. Iowa Code sections 135C.33(7)(a) (health care facilities) and 135B.34(5)(a) (hospitals) requires a person to notify his/her employer within 48 hours if the person is convicted of a crime or has a record of founded child or dependent adult abuse after the person’s application date. Under 135C.33(7)(a) or 135B.34(5)(a), a person is not legally required to reveal that they are under investigation during the application process. DIA cannot address other legal requirements or whether questions of this nature are allowed on the application form.

**REVISED** Q5: Does the facility need to keep records of criminal background checks for all therapists, MDs, ET, consultants, podiatrists, etc?
RESPONSE: If a person is employed by the facility, Iowa Code section 135C.33 requires the facility to perform and maintain a background check. If the person is not an employee of the facility, the facility must be able to obtain and provide, upon request, proof that a background check has been completed for that individual.

Q6: Explain 52.2(6) or give examples of “who were not previously required to attend dependent adult abuse training”.
RESPONSE: Not all employees are required to attend dependent adult abuse training. The definition of “staff member” and subrule 52.2(1) lettered paragraph “a” describe those that are mandatory reporters and, who in turn, must receive the training. Staff members with no contact or de minimis contact with residents are excluded, along with individuals such as part-time volunteers, building contractors, repair workers, or others who are in a facility or program for a very limited purposes, 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. Facilities and programs should evaluate their staff members and the contact each has with residents to determine if they meet the definition.
Q7: Do DME medical providers need to fulfill the requirements to take mandatory reporter training?
RESPONSE: The definition of “staff member” and subrule 52.2(1) lettered paragraph “a” describe those that are mandatory reporters and, who in turn, must receive the training. Facilities and programs should evaluate their staff members and the contact each has with residents to determine if they meet the definition.

**REVISED** Q8: Are facilities required to have a copy of outside vendor’s or independent contractor’s dependent adult abuse training?
RESPONSE: The definition of “staff member” and subrule 52.2(1) lettered paragraph “a” describe those that are mandatory reporters and, who in turn, must receive the training. The facility must have proof of mandatory reporter training for those who meet the definition of “staff member” and subrule 52.2(1)(a). The facility’s or program’s documentation can be a letter from the vendor or contractor with a list of its personnel who have received the required training. Or, the facility or program can maintain a copy of a certificate of completion for each individual completing the required training.

Q9: Has the period given to comply with the mandatory reporter training requirements changed from current 6 months from date of hire to 1 year?
RESPONSE: No. Subrule 52.2(6) states that staff members who are employed by a facility on January 1, 2010 and who were not previously required to attend DAA training must attend the training no later than December 31, 2010. New hires must complete the training within 6 months, as required by Iowa Code section 235B.16(5)(b).

Q10: Should the Operating Board or resident advocates receive mandatory reporter training as well?
RESPONSE: Those who meet the definition of “staff member” and subrule 52.2(1)(a) must receive the training. Facilities and programs should evaluate their staff members and the contact each has with residents to determine if they meet the definition.

Q11: Should an independent licensed beautician / barber receive mandatory reporter training?
RESPONSE: Those who meet the definition of “staff member” and subrule 52.2(1)(a) must receive the training. Facilities and programs should evaluate their staff members and the contact each has with residents to determine if they meet the definition.

Q12: Does the curriculum we have now meet mandatory training criteria or does the facility need a whole new curriculum?
RESPONSE: Without knowing which curriculum the facility is using, the Department cannot answer this question. Please see the Department of Public Health’s Abuse Education Review Panel website at www.idph.state.ia.us/bh/abuse_ed_review.asp for more information on mandatory reporter training.
Q13: We just completed our five-year training in October 2009. Do we need to repeat it all again or do an update?
RESPONSE: Please see the Department of Public Health’s Abuse Education Review Panel website at www.idph.state.ia.us/bh/abuse_ed_review.asp for more information on mandatory reporter training.

Q14: Does chapter 52 expand the reach of the mandatory reporting requirement to persons who perform treatment or services without pay?
RESPONSE: Whether a volunteer is a mandatory reporter depends on what the volunteer is doing at the facility or program. The rules provide that a part-time volunteer who is in the facility or program for a very limited purpose, is not in the facility or program on a regular basis, or does not provide any treatment or services to the residents of the facility or program is not a “staff member,” and therefore not required to report dependent adult abuse. In addition, individuals with no contact or de minimus contact with the residents in a facility or program are not “staff members” for purposes of rule 52.2, and therefore not required to report dependent adult abuse.

Q15: Is a facility's or program's responsibility to provide training limited to those persons who are paid for their services?
RESPONSE: While a volunteer may be required to attend dependent adult abuse training, it is not the responsibility of the facility or program to provide it, given the provisions of Iowa Code section 235B.16.

Q16: Iowa Code section 235E.2(3)(a) states “shall notify the department within 24 hours” and Iowa Administrative rule 52.2(2)(a) states to “report the abuse to the department within 24 hours or the next business day”. Which is correct?
RESPONSE: The rule applies.

Q17: Rule 52.2(2) states that the person in charge shall notify the DIA of an abuse allegation "within 24 hours of such notification or the next business day". If an allegation of abuse is made on a Saturday, can the report to DIA be made on Monday?
RESPONSE: Yes, the rules allow for a report to be made on the next business day if the allegation of abuse is made on a weekend day.

Q18: Does this mean the 5 days for the full report is no longer in the rule?
RESPONSE: The 5 day requirement is a federal requirement that is not affected by the rules.

Q19: Will the on-line report be changed to include the required information as defined in 52.2(2)(f)?
RESPONSE: The Department does not anticipate changes to the self-report tool at this time. The tool is flexible enough to allow free-form text as well as file uploads (Word docs, pdf files). These options should allow facilities to include any necessary information in their reports to the Department.
Q20: What if the facility, through its investigation, did not feel it rose to the level of abuse, so didn’t report it. Can the department turn around and cite this area?
RESPONSE: If the facility suspects abuse, the report needs to be made to the department within 24 hours or the next business day. The department will determine whether to investigate and may take into account the results of the facility/program investigation in determining whether to investigate.

Q21: Do we have to give staff accessibility to the internet? We have a policy of not allowing staff access to the internet without permission of supervisors. Would this be considered an employee policy interfering with reporting?
RESPONSE: Reports of suspected dependent adult abuse can be made in the following ways:

a. Call the toll free complaint intake line: (877) 686-0027
b. Fax the report to (515) 281-7106
c. Via the internet using the online form at hfd_complaint@dia.iowa.gov
d. Submit by regular mail to:
   Iowa Department of Inspections and Appeals
   Health Facilities Division/Complaint Unit
   Lucas State Office Building
   321 East 12th Street
   Des Moines, Iowa 50319-0083

Q22: If a staff member purposely moves a resident’s walker or wheelchair (left by the resident in a pathway) so another resident can safely pass through the area, where the walker/wheelchair was blocking the way (and this temporarily deprives a resident of the access/use of their own walker/wheelchair for someone else) is this exploitation and therefore reportable dependent adult abuse?
RESPONSE: All of the 235E categories of abuse require the Department to consider the totality of the circumstances when determining whether an incident constitutes abuse. Based on the limited facts as stated in your question, this does not appear to be reportable abuse. The decision on what type of abuse an incident might fall under and whether or not it is founded is very fact specific. DIA can only make an informed decision after an incident has been thoroughly investigated and we have the opportunity to review all the evidence.

Q23: What if a tenant has documented cognitive issues that cause them to report things missing that after some assistance in her apartment, the items are located? Such as $1?
RESPONSE: The Department assumes that the questioner is asking whether such instances should be reported as potential dependent adult abuse. Instances of missing items should be reported if the facility reasonably suspects dependent adult abuse has occurred. If an instance of missing items is not reported, the facility should document its reasons for not reporting.

**THE FOLLOWING ARE NEW Q/A**

Q24: Are nursing students required to receive mandatory reporter training? If so, who pays for the training?
RESPONSE: Yes, nursing students must receive mandatory reporter training. See Q15 for information regarding the cost of training.
Q25: Give an example of simple negligence, and an example of gross negligence.

**RESPONSE:** Dependent Adult Abuse cases are very fact-specific; therefore, it is not possible to provide specific examples. To prove abuse, the Department must prove any of the following as a result of the willful misconduct or gross negligence or reckless acts or omissions of a caretaker, taking into account the totality of the circumstances: physical injury, unreasonable confinement, unreasonable punishment, assault, sexual offense, exploitation, neglect, sexual exploitation. Please see the Dependent Adult Abuse Rules Training power point at the Health Facilities Division website for more information. (Go to [https://dia-hfd.iowa.gov/DIA_HFD/Home.do](https://dia-hfd.iowa.gov/DIA_HFD/Home.do), click on “Documents” then “Dependent Adult Abuse Rules Training”)

Q27: When talking about neglect, you use the example “a staff member is asked by a resident on a restricted diet for something to eat that is a restricted dietary item for the resident. The staff member gives the resident the food item knowing that the resident is not supposed to get it.” What about resident’s rights, including the right to refuse a physician’s order?

**RESPONSE:** Because each case is fact-specific, the Department cannot provide a general response to this question. In cases where a resident on a restricted diet is demanding something that is not on the resident’s diet, the facility must evaluate and make a determination whether providing the requested item is appropriate after consulting with the resident’s doctor or the doctor’s designee (physician extender).

Q28: Are facilities and programs required to adapt the mandatory reporter training for mentally challenged staff? For non-English speaking staff?

**RESPONSE:** For questions about the training, visit the Department of Public Health’s Abuse Education Review Panel website at [http://www.idph.state.ia.us/bh/abuse_ed_review.asp](http://www.idph.state.ia.us/bh/abuse_ed_review.asp), or contact Diana Nicholls Blomme at (515) 242-6333.

Q29: What will surveyors look at when they are determining whether the people who are supposed to receive mandatory reporter training have received it?

**RESPONSE:** Surveyors may be directed to look at mandatory reporter training information during the course of an abuse investigation. If so, they will look to see if documentation includes a certificate of completion for each individual who has completed the training or, in the case of a vendor or independent contractor, either a letter from the vendor or contractor with a list of its personnel who have received the required training or a copy of a certificate of completion.