

**ELDER AFFAIRS DEPARTMENT[321]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 231.56A and 235B.16 and chapter 249H and Title VII of the federal Older Americans Act, the Department on Aging hereby gives Notice of Intended Action to rescind Chapter 12, “Elder Abuse, Neglect or Exploitation Prevention and Awareness and Mandatory Reporter Training,” and to adopt new Chapter 15, “Elder Abuse Prevention Initiative and Dependent Adult Abuse Mandatory Reporter Training,” Iowa Administrative Code.

The proposed new chapter provides for the enhanced prevention, detection, and reporting of elder abuse, local advocacy, and service coordination for the protection of older individuals and establishes criteria for certifying trainers to provide dependent adult abuse mandatory reporter training. It also establishes standards for those services and includes a severability rule.

The proposed chapter contains provisions currently found in Chapter 12. Proposed new Chapter 15 includes all Department rules related to elder abuse prevention, intervention, awareness, and mandatory reporter training rather than having the provisions split into two chapters. This rule making also proposes to rescind the current Chapter 12 as a result of combining Chapter 12 into the proposed new Chapter 15.

Any interested person may make written suggestions or comments on the proposed chapter on or before January 19, 2010. Such written suggestions or comments should be directed to the Department on Aging, Jessie M. Parker Building, 510 E. 12th Street, Des Moines, Iowa 50319; E-mailed to [lisa.burk@iowa.gov](mailto:lisa.burk@iowa.gov); or faxed to (515)725-3300.

These amendments are intended to implement Iowa Code sections 231.56A and 235B.16 and chapter 249H and Title VII of the federal Older Americans Act.

The following amendments are proposed.

ITEM 1. Rescind and reserve **321—Chapter 12**.

ITEM 2. Adopt the following **new** 321—Chapter 15:

**CHAPTER 15**

**ELDER ABUSE PREVENTION INITIATIVE AND DEPENDENT ADULT ABUSE  
MANDATORY REPORTER TRAINING**

**321—15.1(231) Purpose.** This chapter establishes the elder abuse prevention initiative as a method of providing prevention, intervention, detection, and reporting of abuse, neglect, and exploitation of older individuals, and of providing service options for at-risk older adults. This chapter also establishes criteria for certifying trainers to provide dependent adult abuse mandatory reporter training.

**321—15.2(231) Definitions.** Words and phrases used in this chapter are as defined in 321 IAC 1 unless the context of the rule indicates otherwise. The following definitions also apply to this chapter:

“Abuse” means the willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or the deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish,

or mental illness in an older individual.

*“Adequate food, shelter, clothing, or other care”* means food, shelter, clothing, or other care which, if not provided, would constitute denial of critical care.

*“Assessment”* means a document designated by the department to be completed by a contractor to determine service needs and address the safety of the client.

*“Assessment intake”* means the process by which a contractor receives and records reports of suspected elder abuse.

*“At-risk older individual”* or *“client”* means a person aged 60 or older who is at risk for or experiencing abuse, neglect, self-neglect, or exploitation.

*“Caregiver”* means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law. *“Caregiver”* also means a family member or other individual who provides compensated or uncompensated care to an older individual.

*“Case”* means a referral of suspected elder abuse that has been accepted for assessment and services.

*“Contractor”* means the contract recipient.

*“Coordinator”* means the contractor’s designee who is responsible for coordinating elder abuse prevention initiative services and who is the central point of contact for case files, subcontractors, and care providers.

*“Department”* means the department on aging.

*“Elder abuse”* means abuse of an older individual and may consist of abuse, neglect, self-neglect, or exploitation.

*“Exploitation”* means an individual, including a caregiver or legal representative, who uses the resources of an older individual for monetary or personal benefit, profit, or gain that results in depriving an older individual of rightful access to, or use of, benefits, resources, belongings, or assets.

*“Immediate danger to health and safety”* means a situation in which death or severe bodily injury could reasonably be expected to occur without intervention.

*“Legal representative”* means a person appointed by the court to act on behalf of a client.

*“Neglect”* means the failure of a caregiver or legal representative to provide the goods or service necessary to maintain the health or safety of an older individual.

*“Older individual”* means a person aged 60 or older.

*“Physical harm”* means bodily injury, impairment, or disease.

*“Purchase of service form”* means the mechanism used to document and request approval for the purchase of a specific service on behalf of a client.

*“Referral”* means any information received by a contractor from any source that identifies an individual aged 60 or older as experiencing, or at risk of, abuse, neglect, or exploitation.

*“Self-neglect”* means an older individual’s inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks, including obtaining essential food, clothing, shelter, and medical care; obtaining goods and services necessary to maintain physical health, mental health, or general safety; or managing one’s own financial affairs.

*“Service provider”* means a provider receiving funds from a contractor.

**321—15.3(231) Project administration.** In any year in which funds are available for the elder abuse prevention initiative, the department shall contract with local agencies or organizations to administer available funds and to study and evaluate community-based projects and educational programs for the prevention of elder abuse. The contractors shall utilize the funds to provide community-based services for older individuals who have been the subject of suspected elder abuse or for the provision of educational programs to raise awareness about elder abuse. Agencies or organizations that receive elder abuse prevention initiative funds shall submit a proposal to the department one month prior to the commencement of the fiscal year. Proposals shall contain the following:

1. Project summary, including issues the project will address;
2. Projection of the number of older individuals to be served;

3. Description of services to be provided;
4. Description of community support for the project;
5. Designation of evaluation and audit mechanisms;
6. Project budget; and
7. Evaluation plan.

**321—15.4(231) Contractor responsibilities.**

**15.4(1)** A contractor shall have a designated coordinator to administer elder abuse prevention initiative funds and services who meets all of the following qualifications:

- a.* A bachelor's degree in a human services field and a minimum of four years of experience in a human services or gerontology field;
- b.* Completion of dependent adult abuse mandatory reporter training requirements in accordance with Iowa Code section 235B.16 prior to direct client contact;
- c.* Completion of orientation and training provided by the department prior to direct client contact related to utilization of the assessment tool; service coordination and monitoring; performance measures and outcome evaluation; advocacy, and public awareness training; and
- d.* Eight hours of annual training related to dependent adult or elder abuse.

**15.4(2)** Staff members utilized by a contractor or subcontractor to provide services shall meet all of the following qualifications:

- a.* A minimum of two years of experience in the human services field;
- b.* Completion of dependent adult abuse mandatory reporter training requirements in accordance with Iowa Code section 235B.16 prior to direct client contact; and
- c.* Completion of orientation and training provided by the department related to utilization of the assessment tool; service coordination and monitoring; performance measures and outcome evaluation; advocacy and public awareness training prior to direct client contact.

**15.4(3)** A contractor shall utilize the assessment forms, purchase of services forms, procedures, and software systems specified by the department.

**15.4(4)** A contractor shall ensure that:

- a.* Record checks have been conducted for any coordinator, staff member, volunteer, or other person who performs duties under a contract or subcontract who:
  - (1) Has direct responsibility for the client, or
  - (2) Has access to a client when the client is alone.
- b.* The record checks shall be conducted to determine whether the person:
  - (1) Has any founded child abuse reports;
  - (2) Has any founded dependent adult abuse reports;
  - (3) Has any criminal convictions; or
  - (4) Has been placed on the sex offender registry.

**321—15.5(231) Funding restrictions.** The use of funding is restricted as follows:

1. A contractor shall determine that the client is not eligible to receive services under another funding source prior to authorizing the use of elder abuse prevention initiative funds and shall document this in the assessment.
2. Services funded shall reduce or eliminate abuse, neglect, self-neglect, exploitation, or risk of the same.
3. The funds shall be utilized for one-time expenditures but may be used for ongoing or monthly expenditures if no other funding source is available and the client would otherwise remain in an abusive situation.

**321—15.6(231) Reallocation of funds.** The contractor shall report, in writing, any projected underexpenditure of funds prior to the completion of the contract. The department may reallocate such funds to other contractors for the same purpose or to the department's elder abuse prevention efforts.

**321—15.7(231) Eligibility.** If funding is available, an older individual shall be eligible for assistance under the elder abuse prevention initiative if all of the following criteria are met:

**15.7(1)** If abuse, neglect, exploitation, or self-neglect exists, or there is risk of same. Abuse, neglect, exploitation, or self-neglect includes the deprivation of the minimum food, shelter, clothing, supervision, physical care, mental health care, or other care necessary to maintain the older individual in an independent living arrangement.

**15.7(2)** The older individual is not a resident in a nursing facility as defined in Iowa Code section 135C.1(13). Exceptions may be granted by the department on a case-by-case basis.

**321—15.8(231) Assessment intake.** A contractor shall accept all referrals for at-risk older individuals who may be experiencing abuse, neglect, self-neglect, or exploitation. The primary purpose of intake is to obtain available and pertinent information regarding an allegation of elder abuse to determine whether or not a referral becomes a case. When a referral is received, the contractor shall record all allegations and concerns on the intake portion of the assessment form to determine the priority level of the case as follows:

**15.8(1) Priority 1.** The at-risk older individual's health or safety is in immediate danger, and the individual requires immediate intervention. The contractor shall contact appropriate agencies such as the department of human services, emergency medical services, and law enforcement. A face-to-face visit with the at-risk older individual and completion of the assessment form shall occur after the life-threatening situation is resolved and within 24 hours.

**15.8(2) Priority 2.** The at-risk older individual's health or safety is not in immediate danger, but the risk is real and foreseeable in the future. A face-to-face visit with the client and completion of the assessment shall be made within four working days.

**15.8(3) Priority 3.** The at-risk older individual's health or safety is not in immediate danger, but there is potential risk for abuse, neglect, self-neglect, or exploitation. Contact with the at-risk older individual is required within ten working days.

**321—15.9(231) Release of information.** A release of information form designated by the department shall be signed by the at-risk older individual or the individual's legal representative prior to the provision of services. In Priority 1 cases, if obtaining the at-risk older individual's signature will delay the process of immediate intervention or the protection of the at-risk older individual's safety, telephone approval is acceptable and shall be documented in the assessment. In this circumstance, appropriate signatures shall be obtained as soon as the life-threatening situation is resolved and a face-to-face assessment is conducted. A release shall also be signed by a client or the client's legal representative if photographs, electronic images, or recordings are taken involving the client or the client's home.

**321—15.10(231) Assessment.** A comprehensive assessment shall be completed on each client within the time frames specified in 321—15.8(231) to protect the client's safety and provide for services where necessary and desired by the client. The tasks associated with completion of the assessment are:

**15.10(1) Interviewing the alleged victim.** This shall include interviewing the at-risk older individual to identify the nature and scope of the abuse or risk; assessing the at-risk older individual's cognitive, emotional, and physical capabilities, home environment, relationships with others living in the residence, relationships with any service providers, and information on the alleged offender; and gathering any information related to prior incidences of similar abuse or risk. Interviews with the alleged victim shall occur without the alleged offender present.

**15.10(2) Interviewing other sources.** Attempts shall be made to conduct interviews with persons who have relevant information to share about allegations.

**15.10(3) Evaluating the information.** Evaluation of the information shall include an analysis that confirms whether or not the alleged victim meets the eligibility criteria for services.

**15.10(4) Intervention plan.** An intervention plan designed to address the victim's situation shall be developed for all clients who are found to be eligible for services and, at a minimum, shall include a

service plan, desired outcomes, funding source, and dates to review progress. If the situation is perpetuated by an older individual's personal choices, the intervention plan shall note this.

**321—15.11(231) Monitoring and reassessment.** A contractor shall monitor the provision of services identified in the intervention plan. A contractor shall conduct and document a face-to-face client reassessment every six months or whenever there is a significant change in the client's physical health, mental health, economic status, or risk status and shall update the intervention plan accordingly.

**321—15.12(231) Purchase of service.** A contractor may subcontract with a service provider for the provision of services. Any service provided by a contractor or a subcontractor shall be documented on a purchase of service form designated by the department. A subcontractor shall send the purchase of service form to the coordinator for approval prior to the expenditure of funds. Notification of approval or denial shall be sent to the subcontractor via E-mail or fax and shall be retained in the client's case record. A service provider shall bill the contractor within 30 days of rendering a service. A copy of all invoices shall be kept in the client's case record.

**321—15.13(231) Case records.**

**15.13(1)** A case record shall be maintained for each client and shall contain copies of the assessments and any related correspondence or information that pertains to the assessment of the client, intervention plan, medical records, updates, legal representation documents, and documentation of dates, times, travel, activities, and expenditures related to the client. The department shall have complete access to all client case records during regular business hours and upon request.

**15.13(2)** Case records shall be maintained for a minimum of five years from the date a case is closed in accordance with Iowa Code chapter 305. A case record that is closed shall contain completed assessments; signed release of information forms; purchase of service forms and invoices for services rendered; department of human services' dependent adult abuse report forms; photographs, electronic images, or recordings; and all case documentation, records, and notes.

**321—15.14(231) Refusal of assistance.** A client has the right to refuse services at any time. However, if dependent adult abuse is suspected, the abuse shall be reported to law enforcement, the department of human services, and the county attorney pursuant to mandatory reporting requirements.

**321—15.15(231) Termination or limitation.** A contractor may terminate or limit services provided under circumstances including but not limited to the following:

1. Services are no longer needed or do not benefit the client;
2. The client moves out of state or outside the service area;
3. The client moves into a nursing facility as defined in Iowa Code section 135C.1(13);
4. The client or the client's legal representative requests termination;
5. The client is unwilling or unable to meet the terms in the intervention plan;
6. The client's legal representative refuses to provide information needed for the development of an intervention plan; or
7. There is risk of harm to the contractor or service provider.

**321—15.16(231) Confidentiality and disclosure.** Client identification numbers shall be used to maintain confidentiality. All case records shall be maintained by the department and the contractor as confidential records pursuant to Iowa Code section 22.7 and shall not be disclosed except with the written consent of the client or the client's legal representative.

**321—15.17(231) Legal representatives.**

**15.17(1)** A legal representative shall provide appointment papers, a court order, or power of attorney documentation within 72 hours of being contacted by a contractor. The legal representative's

signature shall be obtained on the assessment before the client receives services.

**15.17(2)** If there is suspicion of abuse, neglect, exploitation or self-neglect of an older individual and the legal representative will not permit access to the older individual, the contractor shall make oral and written reports to the department of human services and local law enforcement pursuant to Iowa Code section 235B.3. The contractor shall also notify the judge in probate for the county in which the guardianship or conservatorship was filed by certified letter within five days of the denial of access. The notification shall detail concerns and potential consequences of the guardian's or conservator's action or inaction that appears not to be in the best interest of the older individual.

**321—15.18(231) Appeals.** Complaints by any aggrieved party shall be heard first by the contractor using the contractor's procedures and shall be exhausted before the department is contacted. Appeals made by any aggrieved party to the department shall follow the procedures set forth in 321 IAC 2.9(231).

**321—15.19(231) Conflict of interest.** Conflict of interest includes any action or failure to act that may be an actual or perceived conflict between official duties and personal interest. Conflict of interest exists when an elder abuse prevention initiative contractor or any entity or individual involved in that program:

1. Uses an official position for private gain (other than salary);
2. Gives preferential treatment to any contractor, entity, or individual or fails to act impartially in the conduct of official duties;
3. Impedes or adversely affects governmental efficiency or economy;
4. Engages in conduct that could adversely affect the confidence of the public in the integrity of the elder abuse prevention initiative;
5. Creates circumstances where it might reasonably be perceived that a contractor's, an entity's, or an individual's judgment could be influenced by the nature of the circumstances; or
6. Has a client that is related to the contractor, entity, or individual within the third degree of consanguinity.

**321—15.20(235B) Dependent adult abuse mandatory reporter training.** The department shall develop and maintain a dependent adult abuse mandatory reporter training curriculum in accordance with Iowa Code section 235B.16(2). The curriculum shall comply with the specifications of the department of public health's abuse education review panel as provided in 641 IAC 93.

**15.20(1)** The department shall certify trainers to provide the department's approved dependent adult abuse mandatory reporter curriculum. A trainer shall not utilize the department's curriculum unless the trainer has been certified by completing the department's required training program.

**15.20(2)** The department's training program shall include but is not limited to information on laws, rules, and regulations relating to all forms of dependent adult abuse and reporting requirements.

**15.20(3)** A trainer's certification shall be valid for three years from the date of issuance and must be renewed by completing the department's training program.

**15.20(4)** The department may revoke a trainer's certification for noncompliance with training requirements after a written warning.

**15.20(5)** Certified trainers shall notify the department of changes in contact information, such as address, E-mail, and telephone number. Certified trainers shall be responsible for checking the department's Web site for curriculum updates.

**321—15.21(231) Severability.** Should any rule, subrule, paragraph, phrase, sentence, or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

These rules are intended to implement Iowa Code sections 231.56A and 235B.16 and chapter 249H and Title VII of the federal Older Americans Act.