

## ***Mandatory Reporters and Reporting***

***Speaker: Lori Reeves***

Iowa law defines classes of people who must make a report of child abuse within 24 hours when they reasonably believe a child has suffered abuse. These “mandatory reporters” are professionals who have frequent contact with children and generally work in one of six disciplines: health, education, child care, mental health, law enforcement, and social work.

Health care mandatory reporters of child abuse include all licensed physicians and surgeons, physician assistants, dental staff, optometrists, chiropractors, or residents or interns in any of the professions listed. Also included are registered nurses, licensed practical nurses, and basic and advanced emergency medical care providers.

Any person who, in the scope of professional practice, or in their employment responsibilities, examines, attends, counsels, or treats a child is also considered a mandatory reporter of child abuse. This includes a social worker, an employee or operator of a public or private health care facility, a certified psychologist, a licensed school employee, certified paraeducator, a holder of a coaching authorization, or an instructor employed by a community college. Also included is an employee or operator of a licensed child care center, registered child development home, Head Start program, an employee or operator of a licensed substance abuse program or facility, an employee of an institution operated by DHS, an employee or operator of a juvenile detention or juvenile shelter care facility, an employee or operator of a foster care facility or a foster parent, or an employee or operator of a mental health center.

Health service professionals play many roles in the recognition and treatment of child abuse, including the recognition of the abuse, reporting the suspected abuse, crisis intervention, and long-term treatment. Health services personnel are often the first line of defense in the early detection of child abuse. Most health professionals who treat children are required to be mandatory reporters of child abuse.

Educators may spend more hours per day with children than their families. That’s why the role of educators is vital in the mandatory reporting process. All licensed school employees, teachers, coaches, and paraeducators are mandatory reporters. The involvement of educators in the reporting of child abuse is mandated or supported by federal standards and regulations, and state laws, policies, and procedures. Each of these government levels provides authority for, encourages, or mandates educator involvement in the reporting process by stating what is required of the educator, and how that obligation is to be fulfilled. The primary authority at the federal level is the Federal Family Education Rights and Privacy Act (FERPA) of 1974. FERPA, which governs the release of information from school records, does not bar the reporting of suspected child abuse by educators. In the majority of cases, educators will be relying not on school records, but on their own personal knowledge and observations when reporting child abuse. Because no school records are involved in these cases, FERPA does not apply. In a small number of cases, it may be necessary to consult school records to determine whether a

report of child abuse should be made. Ordinarily, parental consent is required before information contained in school records can be released. However, there are exceptions that can apply in cases of child abuse. Some local school systems and boards of education have enacted school policies and procedures regarding child abuse reporting. The policies and procedures support state law with regard to reporting, and often provide internal mechanisms to be followed when a report of child abuse is made. Local school policy may specify that parents be notified when the school makes a report of child abuse. If so, notify DHS of that local policy when making the report of child abuse. Sometimes local procedure may require that administrative staff be notified when a report of child abuse is made, and a copy of the written report filed.

Child care providers play a critical role in keeping children safe. It is very important for them to report when they suspect child abuse. Child care providers include child care staff, foster parents, and residential care personnel. All of these people are mandatory reporters. A child care provider who suspects that a child has been abused should report that to DHS and to the licensing worker. Mental health professionals are often trusted with intimate information about children and families. This makes their role critical when reporting child abuse. All counseling providers, even those who are self-employed, are mandatory reporters of child abuse in regard to the children they counsel.

Law enforcement officers play a very important role in protecting our children from child abuse. Law enforcement officers are seen as a symbol of public safety. They are in an excellent position to raise community awareness about child abuse. Law enforcement officers often encounter situations that involve child abuse. For example, on domestic calls or during drug arrests, the officer may learn of information that constitutes an allegation of child abuse. Children residing in homes where methamphetamine is being manufactured or where precursors are present constitutes an allegation of child abuse, as well as possible criminal charges. Law enforcement is mandated to report to DHS. Law enforcement officers who suspect child abuse in the line of duty are required to report that abuse to the Department of Human Services as soon as they suspect it. Law enforcement officers need to follow the same procedures as all mandatory reporters in reporting child abuse. Law enforcement and child protective services may need to work together.

Sometimes child protective service workers must visit isolated, dangerous locations, and deal with unstable, violent, or substance abusing individuals. Generally, child protective service workers do not have on-site communications like radios, weapons, or special training in self-protection. It is often necessary for law enforcement personnel to accompany child protective workers to conduct their assessment. Failure to have proper backup may have unfortunate consequences to both the child protection worker and the child that may have been abused. Law enforcement has the power to arrest and to enforce any standing orders of the court. When it is necessary to remove a child from the child's home, law enforcement officers are often called upon for assistance. Law enforcement has the general authority to take custody of children. Law enforcement is often able to react to emergency situations faster than child protective service. Law enforcement is also available 24 hours a day, while the child protection worker's after hour response is limited in some communities.

Some employers may have specific policies that require certain training and reporting procedures regarding child abuse for their staff, even when they are not by law considered mandatory reporters. Reporters who by law are not considered mandatory reporters will be considered permissive reporters, regardless of the employer's requirements. To report suspected child abuse, if you are a mandatory reporter of child abuse and you suspect a child has been abused, you need to contact the Department of Human Services. The law requires you to report suspected child abuse to DHS orally within 24 hours of becoming aware of the situation. Call 1-800-362-2178 to report to DHS. According to Iowa Code, you must also make a report in writing within 48 hours after your oral report. When more than one mandatory reporter reasonably suspects abuse involving the same incident, the mandatory reporters, may jointly make a written report to DHS signed by all the mandatory reporters.

The employer or supervisor of a person who is a mandatory or permissive reporter shall not apply a policy, work rule, or other requirement that interferes with the person making a report of child abuse. As a mandatory reporter, you are also required to make an oral report to law enforcement if you have reason to believe that immediate protection of the child is necessary. The law requires the reporting of suspected child abuse. It is not the reporter's role to validate the abuse. The law does not require you to have proof that the abuse occurred before reporting. The law clearly specifies that reports of child abuse must be made when the person reporting "reasonably believes a child has suffered abuse."

Reports are made in terms of the child's possible condition, not in terms of an accusation against parents. A report of child abuse is not an accusation, but a request to determine whether child abuse exists and begin the helping process. Making a report of child abuse may be difficult. You may have doubts about whether the circumstances merit a report, how the parents will react, what the outcome will be, and whether or not the report will put the child at greater risk. The best way to minimize the difficulty of reporting is to be knowledgeable about the reporting requirements, and be aware of the Department's intake criteria, and the response that is initiated by making a report. Within 24 hours of receiving your report, you will be orally notified whether or not the report has been accepted or rejected. Within five working days, you will also be sent a Notice of Intake Decision, indicating whether the report of child abuse was accepted or rejected. When more than one reporter separately makes a report of suspected child abuse on the same incident, and the first report is currently being assessed, DHS will advise the subsequent reporters that the report of child abuse they are making has already been accepted as a case.

If you see a child that is in imminent danger, immediately contact law enforcement to provide immediate assistance to the child. Law enforcement is the only profession that can take a child into custody in that situation. After you have notified law enforcement, then call DHS. Oral and written reports should contain the names and home address of the child and the child's parents or other persons believed to be responsible for the child's care, the child's present whereabouts, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, the name, age, and condition of other children in the same household, the identity of the person or persons responsible for the abuse or neglect to the child, and any other information that you believe may be helpful in establishing the cause of the abuse or neglect to the child. Lastly, you must include your name and address. Form 470-0665, Report of Suspected Child Abuse, includes all this required information. This

form is available from the DHS website. This specific form is not required, but you may use it as a guide in making a report of child abuse.

The issues of confidentiality and privileged communication are often areas of concern for mental health and health service professionals. Rules around confidentiality and privileged communication are waived during the child abuse assessment process and once a report of child abuse becomes a case. Iowa Code provides immunity from any civil or criminal liability which might otherwise be incurred when a person participates in good faith in making a report, photographs, or x-rays, performing a medically relevant test, or assisting in an assessment of a child abuse report. A person has the same immunity with respect to participation in good faith in any judicial proceeding resulting from the report or relating to the subject matter of the report.

Iowa Code provides for civil and criminal sanctions for failing to report child abuse. Any person, official, agency, or institution required to report a suspected case of child abuse, who knowingly and willfully fails to do so, is guilty of a simple misdemeanor. Any person, official, agency, or institution required by Iowa Code to report a suspected case of child abuse who knowingly fails to do so, or who knowingly interferes with the making of such a report is civilly liable for the damages proximately caused by such failure or interference. To protect individuals innocent of child abuse from false accusations, for example, of a spouse in a divorce or child custody dispute, the act of reporting false information regarding an alleged act of child abuse to DHS or causing false information to be reported, knowing that the information is false or that the act did not occur, is classified as a simple misdemeanor. If DHS receives a fourth report which identifies the same child as a victim of child abuse and the same person as the alleged abuser or which is from the same person, and DHS determined that the three earlier reports were entirely false or without merit, DHS may determine that the report is again false or without merit due to the report's false or frivolous nature, terminate its assessment of the report, or provide information concerning the reports to the county attorney for consideration of criminal charges.

For reporters of dependent adult abuse, by generalist definition, a mandatory reporter of dependent adult abuse is anyone who, in the course of employment examines, attends, councils, or treats dependent adults. It is defined in Iowa Code sections 235B.3(2) and 235E.2, and requires the mandatory reporter to report suspected dependent adult abuse to the Department of Human Services or the Department of Inspections and Appeals.

A mandatory reporter includes:

- A member of the staff of a community mental health center
- A staff member or employee of a health care facility as defined in Iowa Code 135C.1; a hospital as defined in Iowa Code 135B; an elder group home as defined in Iowa Code 231B.1; an assisted living program certified under Iowa Code 231C.3; or adult day services programs defined in Iowa Code 231D.1
- A peace officer
- An in-home homemaker-home health aide
- A person employed as an outreach person

- A health practitioner, as defined in Iowa Code section 232.68, which includes most health professionals such as nurses, EMS providers, physical therapists and assistants, occupational therapists and assistants, and dentists and dental professionals, just to mention a few
- A member of the staff or an employee of a community supervised apartment living arrangement, sheltered workshop, or work activity center
- A social worker
- A certified psychologist
- A care review committee member assigned to an elder group home

It is important to note that any other person who believes that a dependent adult has suffered abuse **may** make a report of the suspected abuse to DHS. Mandatory reporters may also report suspected abuse **outside** the scope of their professional practice as **permissive** reporters. For example, if a nurse sees a patient in the emergency room they suspect is the victim of abuse from family members when at home, they, as a mandatory reporter, are required to report this. If that same nurse has an elderly neighbor they suspect is being abused by family members, they are not required to report this as it was not discovered during their course of employment as a nurse, but they may still report it as a permissive reporter. Permissive reporters are not legally required to report, but may feel morally and ethically obligated to.

An employee of a financial institution may also report suspected financial exploitation of a dependent adult if they suspect they are being exploited due to questionable activity on their account, even though they may have not had contact with the dependent adult.

Iowa Administrative Code requires that if you are a mandatory reporter of dependent adult abuse, and you suspect a dependent adult has been abused, you must report it to DHS. Iowa Code requires that if the abuse occurred in a health care facility, hospital, elder group home, assisted living, or adult day services program, then instead of DHS, you should report it to the Department of Inspections and Appeals, or the DIA. You may make this report to DHS or DIA by telephone or by other means.

The DHS Central Abuse Registry accepts reports from any person who believes dependent adult abuse has occurred. DHS maintains a toll-free telephone line, 1-800-362-2178, which is available on a 24-hour-a-day, seven-day-a-week basis. Any person may use this number to report cases of suspected dependent adult abuse. All authorized persons may also use this number for obtaining dependent adult abuse information. DIA can be contacted at 1-877-686-0027. If you have reason to believe that immediate protection for the dependent adult is advisable, also make an oral report to the appropriate law enforcement agency. A county attorney or law enforcement agency that receives a report of dependent adult abuse must refer it to DHS.

As a mandatory reporter you must also make a report in writing within 48 hours after your oral report. You may use DHS form 470-2441, Suspected Dependent Adult Abuse Report, or a format you develop that includes the same information. When more than one mandatory reporter reasonably suspects abuse involving the same incident, the mandatory reporters, may jointly make a written report to DHS signed by all mandatory reporters. The employer or supervisor of a mandatory abuse reporter shall not

apply any 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.

If you are a staff member or employee of a facility or program licensed or certified by the DIA, you must immediately notify the person in charge or the person's designated agent, who then makes the report to the DIA, within 24 hours, unless the person you are to report directly to is the person you suspect of abusing the dependent adult.

DHS form 470-2441 includes the following information: the names and home addresses of the dependent adult, relatives, caretakers, and other people believed to be responsible for the dependent adult's care; the dependent adult's present whereabouts, if not the same as the address given; the reason the adult is believed to be dependent; the dependent adult's age; the nature and extent of the adult abuse, including evidence of previous adult abuse; and information concerning the suspected adult abuse of other dependent adults in the same residence. Be sure to also include other information that you believe might be helpful in establishing the cause of the abuse, or the identity of the people responsible for the abuse, or helpful in assisting the dependent adult, and your name and address. A report that meets the same criteria will be accepted whether or not it contains all of the information listed.

DHS shall inform the appropriate county attorneys of any reports of dependent adult abuse. The department may request information from any person believed to have knowledge of a case of dependent adult abuse. The person, including but not limited to a county attorney, a law enforcement agency, a multidisciplinary team, or a social services agency in the state, shall cooperate and assist in the evaluation upon the request of the department. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult. 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.

It shall be unlawful for any person or employer to discharge, suspend, or otherwise discipline a person required to report, or voluntarily reporting an instance of suspected dependent adult abuse, or cooperating with, or assisting the Department of Human Services in evaluating a case of dependent adult abuse, or participating in judicial proceedings relating to the reporting or cooperation or assistance based solely upon the person's reporting or assistance relative to the instance of dependent adult abuse. A person or employer found in violation of this is guilty of a simple misdemeanor. A person required by this section to report a suspected case of dependent adult abuse who knowingly and willfully fails to do so commits a simple misdemeanor. A person required by this section to report a suspected case of dependent adult abuse who knowingly fails to do so, or who knowingly interferes with the making of a dependent adult abuse report, or applies a requirement that results in a failure to make a report, is civilly liable for the damages proximately caused by the failure.

Iowa Code requires that mandatory reporters of either dependent adult or child abuse complete two hours of training relating to the identification and reporting of abuse within six months of initial employment (or self-employment). They must also complete at least two hours of additional abuse identification and reporting training every five years.

A person who is required to complete both child abuse and dependent adult abuse mandatory reporter training may complete the training through a program that combines child abuse and dependent adult abuse curricula and thereby meet both training requirements simultaneously. The person may satisfy the combined requirements through completion of a two-hour minimum training program. All abuse training curriculum must be approved by the abuse education review panel established by the Department of Public Health.

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