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**Assisted Living (Ch. 231C) and Residential Care (Ch. 135C)**

**Dependent Adult Abuse Prevention, Identification,**

**Investigation and Reporting Policy**

**Policy Statement:**

All Residents/Tenants (hereinafter referenced as “Residents”) have the right to be free from dependent adult abuse including physical injury, injury which is at a variance with the history given of the injury, unreasonable confinement, unreasonable punishment, assault, commission of a sexual offense, exploitation, neglect, or sexual exploitation as these terms are defined below.

It shall be the policy of this facility to implement written procedures that prohibit abuse against dependent adults.

These procedures shall include the screening and training of employees, protection of Residents and the prevention, identification, investigation, and timely reporting of dependent adult abuse.

**Employee Screening:**

The facility shall screen all potential employees for a history of abuse, neglect or mistreating Residents. This will be accomplished through the following (including maintaining documentation of such results):

1. The facility will conduct an Iowa criminal record check and dependent adult/child abuse registry check on all prospective employees prior to hire, in the manner prescribed under Iowa Code 135C.33 and 481 Iowa Administrative Code § 50.9.
2. The facility will conduct a criminal record check and dependent adult/child abuse registry check on all current employees who have criminal convictions or founded abuse determinations after hire, or where the facility received credible information that an employee has had a criminal conviction or a founded abuse determination subsequent to hire. See Iowa Code § 135C.33(7).
3. The facility will make reasonable attempts to request and obtain information from previous employers and/or current employers that may be indicative of a history of abuse, neglect or mistreating Residents.
4. For those employees with licenses (administrators, nurses, dieticians, therapists, etc.) the facility will conduct a check with the appropriate licensing boards to assure that there are no current limitations of practice related to abuse, neglect or mistreatment of Residents.
5. For those employees with certificates (certified nurses’ aides), the facility will conduct a check with the appropriate registry to assure that there is no history of abuse, neglect or mistreating Residents.

**Training of Employees:**

 Upon initial employment, each employee shall be provided with a copy of the facility’s policies and procedures relating to abuse identification and reporting requirements. Within six months of hire each employee shall be required to complete an initial 2-hour training course provided by the Iowa Department of Human Services relating to the identification and reporting of dependent adult abuse. Each employee will take a one (1) hour recertification training within 3 years of the initial training and every three years thereafter. See Iowa Code § 235B.16(5)(b); Iowa Code § 235E.4.

**Identification, Investigation and Reporting of Abuse:**

The following are key definitions that should be considered when determining whether an event constitutes dependent adult abuse.

**Key Definitions:**

“Dependent adult abuse” is defined under Iowa law, pursuant to Iowa Code Ch. 235E as:

1. 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:
	1. A physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult which involves a breach of skill, care, and learning ordinarily exercised by a caretaker in similar circumstances. “Assault of a dependent adult” means the commission of any act which is generally intended to cause pain or injury to a dependent adult, or which is generally intended to result in physical contact which would be considered by a reasonable person to be insulting or offensive or any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

 b. The commission of a sexual offense under Iowa Code chapter 709 [(1) A sex act done by force or against the will of the other. If the consent or acquiescence of the other is procured by threats of violence toward any person or if the act is done while the other is under the influence of a drug inducing sleep or is otherwise in a state of unconsciousness, the act is done against the will of the other;(2) Such other person is suffering from a mental defect or incapacity which precludes giving consent, or lacks the mental capacity to know the right and wrong of conduct in sexual matters] or Iowa Code section 726.2 (incest) with or against a dependent adult.

c. Exploitation of a dependent adult. “Exploitation” means a caretaker knowingly obtains, uses, endeavors to obtain to use or who misappropriates a dependent adult’s funds, assets, medications, or property with the intent to temporarily or permanently deprive a dependent adult of the use, benefit, or possession of the funds, assets, medication or property for the benefit of someone other than the dependent adult.

d. Neglect of a dependent adult. “Neglect of a dependent adult” means 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 physical or mental health.

e. Sexual exploitation of a dependent adult by a caretaker, defined as any consensual or nonconsensual sexual conduct with a dependent adult by a caretaker whether within a facility or program or at a location outside of a facility or program.

 “Sexual exploitation” includes but is not limited to:

 1. Kissing;

 2. Touching of the clothed or unclothed breast, groin, buttock, anus, pubes, or genitals;

 3. A sex act as defined in Iowa Code section 702.17 [any sexual contact between two or more persons by: penetration of the penis into the vagina or anus; contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person; contact between the finger or hand of one person and the genitalia or anus of another person (except in the course of examination or treatment by a physician, physician assistant, chiropractor, or nurse); or by use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.;

 4. The transmission, display or 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, care, monitoring, assessment or diagnosis or as part of an ongoing investigation.

5. Personal degradation of a dependent adult. “Personal degradation” means a willful act or statement by a caretaker intended to shame, degrade, humiliate, or otherwise harm the personal dignity of a dependent adult, or where the caretaker knew or reasonably should have known the act or statement would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person. “Personal degradation” includes the taking, transmission, or display of an electronic image of a dependent adult by a caretaker, where the caretaker’s actions constitute a willful act or statement intended to shame, degrade, humiliate, or otherwise harm the personal dignity of the dependent adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation, or harm to the personal dignity of a reasonable person.

***NOTE***: “Personal degradation” does not include the taking, transmission, or display of an electronic image of a dependent adult for the purpose of reporting dependent adult abuse to law enforcement, the department, or other regulatory agency that oversees caretakers or enforces abuse or neglect provisions, or for the purpose of treatment or diagnosis or as part of an ongoing investigation.

“Personal degradation” also does not include the taking, transmission, or display of an electronic image by a caretaker in accordance with the facility’s or program’s confidentiality policy and release of information or consent policies.

“Caretaker” means a person who is a staff member of a facility or program who provides care, protection or services to a dependent adult voluntarily, by contract, through employment or by order of the court.

**Investigation:**

All allegations of Resident abuse should be reported **immediately** to the charge nurse. The charge nurse is responsible for **immediately** reporting the allegations of abuse to the Director of Nursing, Administrator, or designated representative.

Should an incident or suspected incident of Resident abuse (as defined above) be reported or observed, the administrator or his/her designee will designate a member of management to investigate the alleged incident.

The administrator or designee will complete documentation of the allegation of Resident abuse and collect any supporting documents relative to the alleged incident.

The investigation should include consideration of the following, based on circumstances of the allegations, as applicable:

1. Review the completed documentation of the allegation of Resident abuse;
2. Review the Resident’s medical record to determine events leading up to the incident;
3. If there is indication that injury has or may have occurred, a physical assessment must be completed by the Director of Nursing or charge nurse immediately;
4. Documentation of any physical assessment conducted will be made in the Resident’s chart and a copy of this documentation will be included in the abuse investigation file;
5. The Director of Nursing or designated nurse will notify the Resident’s attending physician of the alleged incident. The responsible family member or responsible party, as documented on the Resident’s chart, will be notified of the incident and advised of the status of the investigation and the actions and reporting being taken;
6. If there is a reasonable suspicion that sexual assault has occurred, the treating physician should be notified to discuss arranging for a rape kit examination. In addition, all bed linens, clothing and undergarments of the affected Resident shall be removed and preserved in a paper sack that is sealed and kept in the custody of a single individual until turned over to the police (chain of custody issue);
7. Interview the person(s) reporting the incident and the alleged perpetrator and document witness statements;
8. Interview all witnesses to the incident and document all witness statements;
9. Attempt to Interview the Resident (as medically appropriate); If the resident’s response is unintelligible, record this, along with objective observations of the resident.
10. Interview staff members (on all shifts) who have had contact with the Resident during the period of the alleged incident;
11. Interview the Resident’s roommate, family members, and visitors if appropriate;
12. In circumstances where the allegation involves an employee, interview other Residents to whom the accused employee provides care or services;
13. In circumstances where the allegation involves another resident, interview other Residents and Employees, where appropriate, to determine if there were witnesses to any alleged abuse involving the alleged perpetrator; and
14. Review all events leading up to the alleged incident.

The following guidelines will be used when conducting interviews:

1. Each interview, if possible, will be conducted separately and in a private location; and
2. The purpose of the interview will be explained thoroughly to each person involved in the interview process.

Witness reports will be reduced to writing. Witnesses will be requested to sign and date such reports. A copy of such reports must be maintained with the investigation file.

**Initial/Immediate Protection During Facility Investigation:**

Upon receiving a report of an allegation of dependent adult abuse, the facility shall immediately separate the alleged victim and the alleged abuser, and shall maintain that separation until the Department’s abuse investigation is completed and the abuse determination is made.

**Reporting:**

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 Iowa Department of Inspections & Appeals immediately, and in no event later than **twenty-four hours, or the next business day** when an employee reasonably believes that a dependent adult has suffered dependent adult abuse [481 I.A.C. 52.2(1)(2)]. Report can be made by calling the reporting hotline at (877) 686-0027, submitting an e-mail to the Department at HFD\_Complaint@dia.iowa.gov , submitting an online report or sending a fax to (515) 281-7106.

If the person in charge is the alleged abuser, the staff member shall directly report the abuse to the Department immediately, and in no event later than twenty-four hours **or the next business day**.

Following investigation, the Administrator or designated agent will be responsible for forwarding the results of the investigation to the Department of Inspections & Appeals.

If the allegations of dependent adult abuse involve a caretaker who is not an employee of the facility (e.g. family member, visitor), a report must be made immediately and in no event later than twenty-four hours or the next business day after the event to the Iowa Department of Human Services (DHS) by phone call 1-800-362-2178 and follow-up documentation is to be submitted to DHS as requested by DHS.

If the investigation determines that the alleged dependent adult abuse or any accident has resulted in major injury to a Resident, the Administrator, Director of Nursing or designated representative shall notify the Department of Inspections & Appeals within twenty-four hours or the next business day pursuant to 481 Iowa Administrative Code § 50.7 (RCFs) or 481 Iowa Administrative Code § 67.4(1)