

December 7, 2009

Dear Members of the Administrative Rules Review Committee:

We wanted to share our views regarding the Dependent Adult Abuse rules proposed by DIA prior to your Tuesday meeting. We hope you find them to be of value.

The Iowa CareGivers Association is a non-profit, non-partisan organization that provides education, recognition, research and advocacy for direct care workers employed in nursing facilities, assisted living centers, home care, and a variety of community-based settings.

We were formed in 1992 in order to improve the jobs and lives of direct care workers, and to enhance the quality of care for those they serve. We believe that direct care work is high value work, and that those who perform it deserve to be better and more consistently trained, better compensated, and to have their profession be certified and monitored by the State of Iowa (much like other health and long term care professionals).

While we frequently work on issues with a variety of provider and consumer-focused organizations, we are a proudly independent organization that looks at the world through the eyes of those who work on the front lines of health and long term care.

It's important to stress that most direct care workers are in the profession because they DO care; they care about the people they serve and often become a member of the individual's extended family. They have no tolerance for abuse of the people they care for and about, and want to see anyone who is truly abusive recognized and held accountable for their actions.

After considerable review of and discussion regarding the proposed rules, here's what we conclude:

SUPPORT FOR THE RULES

We support the rules and believe that there are many things in them that represent real progress for direct care workers. They include:

- The inclusion in the rules of language stating that DIA will take into account “the totality of the circumstances” in their investigations of dependent adult abuse is a **major step forward** in being fair to workers trying to do their best in challenging care situations.
This language makes it clear that workers should not be cited for abuse and placed on a registry when inadequate care is directly affected by such things as:
 - Inadequate initial or ongoing training
 - Short staffing (Example: a Certified Nurse Aide who is doing a two-person lift of a resident alone because not enough staff are available to assist and the action results in an injury to the resident)
 - Inappropriate actions of a resident/client (Example: a resident with a broken hip attempts to get out of bed and walk without assistance when they have been directed not to by their family, their physician and staff)
 - Management acceptance of actions at the worksite that allow practice to deviate from established policy (Example: Policy calls for wheelchairs to be equipped with foot supports that are regularly used. The practice in the facility is to allow wheel chairs to be used without foot supports.)
- Including language dealing with “minor, isolated, and unlikely to reoccur” situations where the Department is expected to use judgment in determining whether the citation warrants being classified as “founded” dependent adult abuse and being placed on the central registry.



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- Allowing a direct care worker who is a mandatory reporter to notify the Department direct of any suspected abuse.
- Increasing the dependent adult abuse standard from negligence to gross negligence is a positive step forward and emphasizes the need to distinguish between “mistakes” and “abuse.” The standard for defining “gross negligence” proposed by the Department would appear to strike a fair balance between the interests of the worker and the consumer they exist to serve.

AN AGGRESSIVE APPROACH TO TRAINING IS NEEDED

We appreciate DIA’s commitment to engage in an aggressive effort to orient direct care staff to these rules and their application. We believe that the best way to understand the rules is to use real world examples of situations, what actions were or were not taken, and with what result. This kind of conversation will be valuable for direct care workers, and greatly appreciated by them. We stand ready to assist with and help to facilitate such conversations, and we strongly encourage the legislature to consider the use of Civil Monetary Penalty dollars to support such a program.

This aggressive effort needs to be incorporated into the initial training for all direct care staff, and to become a central part of the ongoing training they receive.

INTERPRETATION AND APPLICATION OF THE RULES IS KEY

When the jobs and lives of direct care workers are affected by administrative rules, particularly new rules, the interpretation and application of them by the Department is the key to their “fairness.” We intend to work with the Department, the various provider organizations, and numerous other interested parties, as these new rules are implemented to insure that direct care workers are treated appropriately in the investigative process, protected from wrongful accusations, and are NOT placed on an abuse registry when some form of abuse occurs due to circumstances beyond their control.

GIVE EXPANDED ATTENTION TO THE PREVENTION OF ABUSE

We strongly encourage the legislature, state government agencies, industry representatives, direct care workers, advocacy groups and interested lowans to come together to address dependent adult abuse in another way. Citations for abuse are necessary, but we strongly believe that the opportunity needs to be seized to give expanded attention to the **PREVENTION of abuse.**

The one thing that ALL lowans can agree on is that NO ONE wants abuse to occur. With that as a given, we should be devoting more time and resources to focusing on not **WHAT** happens, but **WHY** it happens. By looking at the various workplaces and what tends to occur when involving whom under what circumstances (or what “best practices” exist in those facilities where abuse seldom if ever occurs), we can begin to identify and implement appropriate preventative steps.

We will be pleased to assist in such an effort.

Thank you for your time and for considering our views.

Respectfully Submitted,

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