

Categories of Abuse – Dependent Adult Abuse

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As defined in Iowa Code section 235B.2, “dependent adult abuse” includes six categories of abuse as the result of the willful or negligent acts or omissions of a caretaker. These categories include physical abuse (including assault and unreasonable confinement or punishment), financial exploitation, sexual abuse, sexual exploitation by a caretaker, denial of critical care, which may also be committed by the dependent adult themselves, and a new category added in 2017 called personal degradation. Let’s look at each more closely.

Physical abuse occurs as a result of the willful misconduct, gross negligence or reckless acts, or omissions of a caretaker, taking into account the totality of the circumstances. It can include physical injury, injuries which are at a variance with the history given of an injury, unreasonable confinement, unreasonable punishment, and assault that involves the breach of skill, care, and learning ordinarily exercised by a caretaker in similar circumstances.

An “assault” is committed by a caretaker when, without justification, the person does any of the following:

- They commit any act which is intended to cause pain or injury to, or which is intended to result in physical contact which will be insulting or offensive to another, coupled with the apparent ability to execute the act.
- They commit 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.
- They intentionally point any firearm toward another, or display in a threatening manner any dangerous weapon toward another.

However, the act shall not be considered an assault when the person doing the act and the other person are voluntary participants in a sport, social event, or other activity that is not in itself criminal, and the act is a reasonably foreseeable incident of that sport or activity, and does not create an unreasonable risk of serious injury or breach of the peace. For example, participation by a dependent adult in a civil war re-enactment with weapons would not constitute abuse. Note that there does not have to be an injury to constitute physical abuse.

The second category of **financial exploitation** includes the act or process of taking unfair advantage of a dependent adult, or the adult’s physical or financial resources, for one’s own personal or monetary profit without the informed consent of the dependent adult, including theft. This can be accomplished by the use of undue influence, harassment, duress, deception, false representation, or false pretenses, and is a result of the willful or negligent acts or omissions of a caretaker. It can include a caretaker who 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.

The third category, **sexual abuse**, means the commission of a sexual offense under Iowa Code Chapter 709 or Iowa Code section 726.2 with or against a dependent adult as a result of the willful or negligent acts or omissions of a caretaker. "Sexual abuse" includes the following subcategories:

- First degree sexual abuse
- Second degree sexual abuse
- Third degree sexual abuse
- Indecent exposure
- Assault with intent to commit sexual abuse and incest
- Sexual exploitation by a counselor or therapist
- Sexual exploitation of a dependent adult by a caretaker
- Invasion of privacy, nudity
- Incest

Similar to sexual abuse, **sexual exploitation by a caretaker**, means any consensual or nonconsensual sexual conduct with a dependent adult with the intent of arousing or satisfying the sexual desires of the caretaker or the dependent adult. This includes, but is not limited to, kissing, touching the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals, or a sex act as defined in section 702.17. Sexual exploitation also includes 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 or diagnosis, or as part of an ongoing assessment, evaluation, or investigation. Remember that 99% of persons with developmental disabilities have had no sex education and may be unaware of acceptable standards.

Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker, the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, casual friendship, or touching between spouses or domestic partners in an intimate relationship.

Denial of critical care involves the 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 health, as a result of the willful or negligent acts or omissions of a caretaker, or by the dependent adult themselves. This includes the following sub-categories:

- Denial of or failure to provide adequate food
- Denial of or failure to provide adequate shelter
- Denial of or failure to provide adequate clothing
- Denial of or failure to provide adequate medical care
- Denial of or failure to provide adequate mental health care

- Denial of or failure to meet emotional needs necessary for normal functioning
- Denial of or failure to provide proper supervision
- Denial of or failure to provide adequate physical care

Personal degradation has been added as a category of dependent adult abuse. “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. This applies to individuals in a facility or program overseen by the DIA.

“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 dependent adult.

This does not include images taken 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 of 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.

Dependent adult abuse does **not** include the following circumstances:

- The dependent adult declines medical treatment because the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
- The dependent adult’s caretaker declines such treatment acting in accordance with the dependent adult’s stated or implied consent, if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
- The dependent adult or the dependent adult’s next of kin or guardian requests withholding or withdrawal of health care from a dependent adult who is terminally ill, in the opinion of a licensed physician, pursuant to the applicable procedures under Iowa Code Chapters 125, 144A, 222, 229, or 633.