

NDCC 25-01.3-01 Definitions of Abuse/Neglect/Exploitation.

1. **“Abuse” means:**

- a. Willful use of offensive, abusive, or demeaning language by a caretaker that causes mental anguish of any person with a developmental disability.
- b. Knowing, reckless or intentional acts or failures to act, which cause injury or death to a person with a developmental disability or mental illness or which, placed that person at risk of injury or death.
- c. Rape or sexual assault of a person with a developmental disability or mental illness.
- d. Corporal punishment or striking of a person with a developmental disability or mental illness.
- e. Unauthorized use or the use of excessive force in the placement of bodily restraints on a person with a developmental disability or mental illness.
- f. Use of bodily or chemical restraints on a person with a developmental disability or mental illness, which is not in compliance with federal or state laws and administrative regulations.

2. **“Exploitation”** (when committed by a caretaker, or relative of, or any person in a fiduciary relationship to the person with a developmental disability or mental illness) means:

- a. The taking or misuse of property or resources of a person with a developmental disability or mental illness by means of undue influence, breach of fiduciary relationship, deception, harassment, criminal coercion, theft or other unlawful or improper means.
- b. The use of the services of a person with a developmental disability or mental illness without just compensation.
- c. The use of a person with a developmental disability or mental illness for the entertainment or sexual gratification of others under circumstances that cause degradation, humiliation, or mental anguish to the person with the developmental disability or mental illness.

3. **“Neglect” means:**

- a. Inability of a person with a developmental disability or mental illness to provide food, shelter, clothing, health care, or services necessary to maintain the mental and physical health of that person. (Self neglect).
- b. Failure by any caretaker of a person with a developmental disability or mental illness to meet, either by commission or omission, any statutory obligation, court order, administrative rule or regulation, policy, procedure, or minimally accepted standard for care of persons with a developmental disability or mental illness.
- c. Negligent act or omission by any caretaker which causes injury or death to a person with a developmental disability or mental illness or which places that person at risk of injury or death.
- d. Failure by any caretaker, who is required by law or administrative rule, to establish or carry out an appropriate individual program or treatment plan for a person with a developmental disability or mental illness.
- e. Failure by any caretaker to provide adequate nutrition, clothing or health care to a person with a developmental disability or mental illness.
- f. Failure by any caretaker to provide a safe environment for a person with a developmental disability or mental illness.
- g. Failure by any caretaker to maintain adequate numbers of appropriately trained staff at a facility providing care and services for persons with a developmental disability or mental illness.