

AGGRAVATED ASSAULT – HEALTH CARE WORKER
(ATTEMPTING TO CAUSE OR PURPOSELY, KNOWINGLY OR
RECKLESSLY CAUSING BODILY INJURY)
(N.J.S.A. 2C:12-1(b)(5)(j))

Count _____ of this indictment charges the defendant with aggravated assault.

(Read appropriate count of indictment)

The defendant is accused of violating a law that provides, in pertinent part:

A person is guilty of aggravated assault if he attempts to cause or purposely, knowingly or recklessly causes bodily injury to (any health care worker employed by a licensed health care facility) (any health care professional licensed or otherwise authorized pursuant to Title 26 or Title 45 of the New Jersey code to practice the health care profession) while clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession.

In order for you to find the defendant guilty of this charge, the State must prove each of the following elements beyond a reasonable doubt:

(CHARGE AS APPROPRIATE)

OPTION ONE (Causing Bodily Injury)

1. That the defendant did cause bodily injury to **NAME OF VICTIM**;
2. That the defendant acted purposely or knowingly or recklessly in causing bodily injury to **NAME OF VICTIM**;
3. That **NAME OF VICTIM** was (**CHOOSE APPROPRIATE**) (a health care worker employed by a licensed health care facility)(A health care professional licensed or otherwise authorized pursuant to Title 26 or Title 45 of the New Jersey code to practice the health care profession); and
4. That the defendant caused the bodily injury while **NAME OF VICTIM** was clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession.

The first element that the State must prove beyond a reasonable doubt is the defendant caused bodily injury to another.

Bodily injury is defined as physical pain, illness or any impairment of the physical

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condition.¹

The second element that the State must prove beyond a reasonable doubt is the defendant acted purposely or knowingly or recklessly in causing bodily injury to **NAME OF VICTIM**.

A person acts purposely with respect to causing bodily injury to another if it is a person's conscious object to cause bodily injury to another. A person acts purposely with respect to attendant circumstances if a person is aware of the existence of such circumstances or a person believes or hopes that they exist. One can be deemed to be acting purposely if one acts with design, with a purpose, with a particular object, if one really means to do what he/she does.

A person acts knowingly with respect to causing bodily injury if a person is aware that his/her conduct is of that nature, or that such circumstances exist or a person is aware of a high probability of their existence. A person acts knowingly with respect to a result of his/her conduct if a person is aware that it is practically certain that his/her conduct will cause bodily injury. One is said to act knowingly if one acts with knowledge, if one acts consciously, if he/she comprehends his/her acts.

A person acts recklessly with respect to causing bodily injury when a person consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his/her conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to the actor its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation. One is said to act recklessly if one acts with recklessness, with scorn for the consequences, heedlessly, foolhardily.

The nature of the purpose or knowledge or recklessness with which the defendant acted toward the victim of the assault is a question of fact for you the jury to decide. Purpose and knowledge and recklessness are conditions of the mind which cannot be seen and can only be determined by inferences from conduct, words or acts. It is not necessary for the State to produce a witness or witnesses who could testify that the defendant stated, for example, that his/her purpose was to cause bodily injury. It is within your power to find that proof of purpose or knowledge or recklessness has been furnished beyond a reasonable doubt by inferences which

¹ N.J.S.A. 2C:11-1(a).

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may arise from the nature of the acts and the surrounding circumstances.²

The third element that the State must prove beyond a reasonable doubt is that **NAME OF VICTIM** was (**CHOOSE APPROPRIATE**) (a health care worker employed by a licensed health care facility)(A health care professional licensed or otherwise authorized pursuant to Title 26 or Title 45 of the New Jersey code to practice the health care profession.)

A health care worker means any person who is directly employed by a licensed health care facility.³

The fourth element that the State must prove beyond a reasonable doubt is that the defendant caused the bodily injury while **NAME OF VICTIM** was clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession.

If you find that the State has failed to prove any element of the offense beyond a reasonable doubt, then you must find the defendant not guilty. If you find that the State has proved each element of the crime beyond a reasonable doubt, then you must find the defendant guilty.

OPTION TWO (ATTEMPT TO CAUSE BODILY INJURY):

1. That the defendant attempted to cause bodily injury to **NAME OF VICTIM**;
2. That the defendant acted purposely;
3. That **NAME OF VICTIM** was (**CHOOSE APPROPRIATE**) (a health care worker employed by a licensed health care facility)(A health care professional licensed or otherwise authorized pursuant to Title 26 or Title 45 of the New Jersey code to practice the health care profession)
4. That the defendant attempted to cause the bodily injury while **NAME OF VICTIM** was clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession.

The first element that the State must prove beyond a reasonable doubt is the defendant attempted to cause bodily injury to another.

Bodily injury is defined as physical pain, illness or any impairment of the physical

² If causation is an issue, the jury should be instructed on causation. See N.J.S.A. 2C:2-3(a)(1) et. seq.

³ N.J.A.C. 8:43E-11.2

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condition⁴.

The second element the state must prove beyond a reasonable doubt is the defendant purposely attempted to cause bodily injury to **NAME OF VICTIM** (or another).

A person acts purposely with respect to causing bodily injury if it is a person's conscious object to cause bodily injury. A person acts purposely with respect to attendant circumstances if a person is aware of the existence of such circumstances or a person believes or hopes that they exist. One can be deemed to be acting purposely if one acts with design, with a purpose, with a particular object, if one really means to do what he does.

The law provides that a person attempts to commit the crime of assault, in this context, if, acting purposefully, he:

(select appropriate section)

1. Engaged in conduct that would constitute the offense if the attendant circumstances were as a reasonable person would believe them to be;

(or)

2. Did (or omitted to do) anything with the purpose of causing bodily injury to another without further conduct on his/her part. This means that the defendant(s) did something designed to cause bodily injury without having to take any further action.

(or)

3. Did (or omitted to do) anything that, under the circumstances as a reasonable person would believe them to be, was an act (or omission) constituting a substantial step in a course of conduct planned to culminate in his commission of the crime.

The step taken must be one that is strongly corroborative of the defendant's criminal purpose. The accused must be shown to have had a firmness of criminal purpose in light of the step(s) he had already taken. These preparatory steps must be substantial and not just very

⁴ N.J.S.A. 2C:11-1(a).

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remote preparatory acts.⁵

The third element that the State must prove beyond a reasonable doubt is that **NAME OF VICTIM** was (**CHOOSE APPROPRIATE**) (a health care worker employed by a licensed health care facility)(A health care professional licensed or otherwise authorized pursuant to Title 26 or Title 45 of the New Jersey code to practice the health care profession.)

A health care worker means any person who is directly employed by a licensed health care facility.⁶

The fourth element that the State must prove beyond a reasonable doubt is that the defendant attempted to cause the bodily injury while **NAME OF VICTIM** was clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession.

If you find that the State has failed to prove any element of the offense beyond a reasonable doubt, then you must find the defendant not guilty. If you find that the State has proved each element of the crime beyond a reasonable doubt, then you must find the defendant guilty.

⁵ If renunciation of criminal purpose is alleged, see N.J.S.A. 2C:5-1(d), that portion of the Model Jury Charge on Attempt regarding renunciation should also be charged.

⁶ N.J.A.C. 8:43E-11.2