

Ala. Code 1975, § 13A-6-193(a)(1)

Elder Abuse and Neglect Second Degree
(Intentional)

The defendant is charged with elder abuse and neglect in the second degree.

A person commits the crime of elder abuse and neglect in the second degree if he/she intentionally abuses or neglects any elderly person and the abuse or neglect causes serious physical injury to the elderly person.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

- (1) The Defendant abused or neglected an elderly person [**insert name of person**], by [**describe method of abuse or neglect**];
- (2) The Defendant's abuse or neglect caused serious physical injury to the elderly person; **(AND)**
- (3) The defendant acted intentionally.

Neglect is the failure of a caregiver to provide food, shelter, clothing, medical services, medication, or health care for an elderly person. [13A-6-191(7)]

A *caregiver* is an individual who has the responsibility for the care of an elderly person as a result of family relationship or who has assumed the responsibility for the care of the person voluntarily, for pecuniary gain, by contract, or as a result of the ties of friendship. [13A-6-191(1)]

An *elderly person* is a person 60 years of age or older. [13A-6-191(3)]

A *person* is a human being. [13A-6-191(8)]

Serious physical injury is physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ. [13A-1-2(14)]

Physical injury is impairment of physical condition or substantial pain. [13A-1-2(12)]

A person acts *intentionally* with respect to a result or to conduct described by a statute defining an offense, when his/her purpose is to cause that result or to engage in that conduct. [13A-2-2(1)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the elements of the offense of elder abuse and neglect in the second degree, then you shall find the defendant guilty of elder abuse and neglect in the second degree.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of the offense of elder abuse and neglect in the second degree, then you cannot find the defendant guilty of elder abuse and neglect in the second degree.

[If lesser-included offenses are included, the Court should instruct on those offenses at this point.]

Use Notes

No physician, as defined under Section 34-24-50.1, who is licensed to practice medicine in this state, shall be subject to Sections 13A-6-192, 13A-6-193, and 13A-6-194 for any acts or omissions constituting the practice of medicine. [13A-6-201]

[Approved 4-15-16.]