

**13A-6-21(a)(6)**  
**ASSAULT SECOND DEGREE**  
**(Intent - Health Care Worker)**

The defendant is charged with assault in the second degree.

A person commits the offense of assault second degree if, with intent to cause physical injury to a health care worker, including a nurse, physician, technician, pharmacist, pharmacy technician, pharmacy intern, pharmacy extern, pharmacy cashier, or any other person employed by or practicing at a: **[Read All Appropriate]**

- (A) Hospital;
- (B) County or district health department;
- (C) Long-term care facility;

**(OR)** (D) Physician's office, clinic, or outpatient treatment facility

During the course of or as a result of the performance of the duties of the health care worker or other person employed by or practicing at the: **[Read All Appropriate]**

- (A) Hospital;
- (B) County or district health department;
- (C) Health care facility owned or operated by the State of Alabama;
- (D) Long-term care facility;

**(OR)** (E) Physician's office, clinic, or outpatient treatment

facility; he/she causes physical injury to any person.

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

(1) The defendant caused physical injury to a person, **[Insert Name Of Injured Person]; (AND)**

(2) The defendant intended to cause physical injury to a health care worker, including a nurse, physician, technician, pharmacist, pharmacy technician, pharmacy intern, pharmacy extern, pharmacy cashier, or any other person employed by or practicing at a: **[Read All Appropriate]**

- (A) Hospital;
- (B) County or district health department;
- (C) Long-term care facility;

**(OR)** (D) Physician's office, clinic, or outpatient treatment facility

during the course of or as a result of the performance of the duties of the health care worker or other person employed by or practicing at the: **[Read All Appropriate]**

- (A) Hospital;
- (B) County or district health department;
- (C) Health care facility owned or operated by the State of Alabama;
- (D) Long-term care facility;

**(OR)** (E) Physician's office, clinic, or outpatient treatment facility.

**[Read As Appropriate]** A *person*, when referring to the victim, means a human being, including an unborn child in utero at any stage of development, regardless of viability. [13A-6-1(a)(3)]

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

**[Read As Appropriate]** *Hospitals* are general and specialized hospitals, including ancillary services; independent clinical laboratories; rehabilitation centers; ambulatory surgical treatment facilities for patients not requiring hospitalization; end stage renal disease treatment and transplant centers, including free-standing hemodialysis units; abortion or reproductive health centers; hospices; health maintenance organizations; and other related health care institutions when such institution is primarily engaged in offering to the public generally, facilities and services for the diagnosis and/or treatment of injury, deformity, disease,

surgical or obstetrical care. Also included are long term care facilities such as, but not limited to, skilled nursing facilities, intermediate care facilities, assisted living facilities, and specialty care assisted living facilities rising to the level of intermediate care. The term "hospitals" relates to health care institutions and shall not include the private offices of physicians or dentists, whether in individual, group, professional corporation or professional association practice. [22-21-20(1)]

**[Read As Appropriate]** This offense applies to assaults on home health care workers while they are in private residences. [13A-6-21(a)(6)]

A person acts *intentionally* when it is his/her purpose to cause physical injury to another person. [See 13A-2-2(1)]

**[Read As Appropriate - Transferred Intent]** A person acts *intentionally* when it is his/her purpose to cause physical injury to a specific person, regardless of whether the injured person is actually the person whose injury the defendant allegedly wished to cause. [See Ex parte Jackson, 614 So.2d 405, 406-407 (Ala. 1993); Farrior v. State, 728 So.2d 691, 695-696 (Ala. Crim. App. 1999)].

If you find from the evidence that the State has proved beyond a reasonable doubt each of the elements of assault in the second degree, then you shall find the defendant guilty of assault 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 assault in the second degree, then you cannot find the defendant guilty of assault in the second degree.

**[If Lesser-Included Offenses Are Included, The Court Should Instruct On These Offenses At This Point.]**

#### **Use Notes**

This subdivision does not apply to assaults by patients who are impaired by medication. [13A-6-21(6)]

For unborn child exceptions see 13A-6-1(b) through (e).

**[Approved 08-08-24]**