

Ala. Code 1975, § 13A-6-21(a)(6)

Assault Second Degree
(Health Care Worker)

The defendant is charged with assault in the second degree.

A person commits the crime of assault in the second degree if, with intent to cause physical injury to: **[Read all appropriate]**

- (A) A health care worker, including a nurse, physician, technician, or any other person employed by or practicing at a hospital;
- (B) A county or district health department;
- (C) A long-term care facility; **(OR)**
- (D) A 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: **[Read all appropriate]**

- (A) A hospital;
- (B) A county or district health department;
- (C) A health care facility owned or operated by the State of Alabama;
- (D) A long-term care facility; **(OR)**
- (E) A 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 another person, **[Insert name of injured person]**;

(2) The defendant intended to cause physical injury to: **[Read all appropriate]**

- (A) A health care worker, including a nurse, physician, technician, or any other person employed by or practicing at a hospital;
- (B) A county or district health department;
- (C) A long-term care facility; **(OR)**
- (D) A 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: **[Read all appropriate]**

- (A) A hospital;
- (B) A county or district health department;

- (C) A health care facility owned or operated by the State of Alabama;
- (D) A long-term care facility; **(OR)**
- (E) A 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)]

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

[Read as appropriate - Transferred Intent]: A person acts *intentionally* when it is his/her purpose to cause the death of a specific person, regardless of whether the deceased person is actually the person whose death 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. 1998).

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above 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 any one or more of the elements of the offense 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 those offenses at this point.]

Use Notes

This subdivision does not apply to assaults by patients who are impaired by medication or to assaults on home health care workers while they are in private residences. [13A-6-21(6)]

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

[Approved 10-14-15.]