

Ala. Code 1975, § 13A-9-21(a)(2)

Making or Causing Another to Make a False or Fraudulent Application for a Certificate of Qualification or License to Practice Medicine

The defendant is charged with making or causing another to make a false or fraudulent application for a certificate of qualification or license to practice medicine.

A person commits the crime of making or causing another to make a false or fraudulent application for a certificate of qualification or license to practice medicine if in connection with the submission of an application for a certificate of qualification or license to practice medicine, he/she makes or causes another person to make any false, fraudulent or deceptive statement to the employees, agents or members of the Medical Licensure Commission or Board of Medical Examiners to whom he/she has submitted an application for a license.

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

- (1) The defendant made or caused another person to make a false, fraudulent or deceptive statement, **[describe]**, to the employees, agents or members of the Medical Licensure Commission or Board of Medical Examiners to whom he/she had submitted an application for a license to practice medicine, in connection with the submission of an application for a certificate of qualification or license to practice medicine; **(AND)**
- (2) The defendant acted **[Insert appropriate mens rea element - See Use Note]**.

If you find from the evidence that the State has proved beyond a reasonable doubt each of the elements of the offense of making or causing another to make a false or fraudulent application for a certificate of qualification or license to practice medicine, then you shall find the defendant guilty of making or causing another to make a false or fraudulent application for a certificate of qualification or license to practice medicine.

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 making or causing another to make a false or fraudulent application for a certificate of qualification or license to practice medicine, then you cannot find the defendant guilty of making or causing another to make a false or fraudulent application for a certificate of qualification or license to practice medicine.

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

Use Notes

The statute does not state a specific mens rea element.

Insert the appropriate mens rea element considering the indictment and the evidence before the court. There are few, if any, strict liability offenses in the Code. See Commentary for 13A-2-3 and 13A-2-4(b). There are four mens rea elements in the Alabama Code: intentionally, knowingly, recklessly and with criminal negligence. See 13A-2-2.

1. 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)]
2. A person acts *knowingly* with respect to conduct or to a circumstance described by a statute defining an offense he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]
3. A person acts *recklessly* with respect to a result or to a circumstance when he/she is aware of and consciously disregards a substantial and unjustifiable risk that the risk will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. [13A-2-2(3)]
4. A person acts with *criminal negligence* with respect to a result or to a circumstance when he/she fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. A court or jury may consider statutes or ordinances regulating the defendant's conduct as bearing upon the question of criminal negligence. [13A-2-2(4)]

[Approved 6-17-16.]