

**Ala. Code 1975, § 13A-9-21(a)(3)**

**Giving or Using Assistance in Licensing Exam**

The defendant is charged with giving or using assistance in the licensing examination.

A person commits the crime of giving or using assistance in the licensing examination if in connection with sitting for an examination administered by the Board of Medical Examiners, he/she attempts to give assistance to another or attempts to use the assistance of another in answering questions or solving problems contained in the licensing examination.

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

- (1) The defendant attempted to give assistance to another or attempted to use the assistance of another in answering questions or solving problems contained in the licensing examination, **[describe]**, in connection with sitting for an examination administered by the Board of Medical Examiners;  
**(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 giving or using assistance in the licensing examination, then you shall find the defendant guilty of giving or using assistance in the licensing examination.

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 giving or using assistance in the licensing examination, then you cannot find the defendant guilty of giving or using assistance in the licensing examination.

**[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.]