

N.C.P.I.—Crim. 206.76

DEATH BY DISTRIBUTION THROUGH UNLAWFUL DELIVERY WITH MALICE OF CERTAIN CONTROLLED SUBSTANCES. FELONY.

GENERAL CRIMINAL VOLUME

MARCH 2024

N.C. Gen. Stat. § 14-18.4(a2)

206.76 DEATH BY DISTRIBUTION THROUGH UNLAWFUL DELIVERY WITH MALICE OF CERTAIN CONTROLLED SUBSTANCES. FELONY.

NOTE WELL: N.C. Gen. Stat. § 14-18.4(f) provides that nothing in this section shall be construed to restrict or interfere with the rights and immunities provided under the Samaritan Protection in N.C. Gen. Stat. 90-96.2. N.C. Gen. Stat. § 14-18.4(g) provides that this section does not apply to lawful distribution pursuant to a valid prescription.

NOTE WELL: N.C.P.I.–Crim 206.76 Death by Distribution Through Unlawful Delivery with Malice of Certain Controlled Substances replaces N.C.P.I.–Crim 206.31B Second Degree Murder, Caused By Controlled Substance. N.C. Gen. Stat. 14-18.4 was amended, effective December 1, 2023. Use this instruction for offenses on or after December 1, 2023. For offenses before December 1, 2023 see N.C.P.I.–Crim 206.31B.

The defendant has been charged with death by distribution through unlawful delivery with malice of certain controlled substances.¹

For you to find the defendant guilty of this offense, the State must prove four things beyond a reasonable doubt:

First, that the defendant unlawfully delivered (a) controlled substance(s).² (*Name controlled substance(s)*) [is a] [are] controlled substance(s).

Second, that the defendant acted with malice. Malice arises when an act that is inherently dangerous to human life is done so recklessly and wantonly as to manifest a mind utterly without regard for human life and social duty and deliberately bent on mischief.

Third, that the ingestion of (that) (these) controlled substance(s) caused the death of the user.

N.C.P.I.—Crim. 206.76

DEATH BY DISTRIBUTION THROUGH UNLAWFUL DELIVERY WITH MALICE OF CERTAIN CONTROLLED SUBSTANCES. FELONY.

GENERAL CRIMINAL VOLUME

MARCH 2024

N.C. Gen. Stat. § 14-18.4(a2)

And Fourth, that the defendant’s unlawful delivery of (the) controlled substance(s) was the proximate cause of the user’s death. A proximate cause is a real cause, a cause without which the user’s death would not have occurred, and one that a reasonably careful and prudent person could foresee would probably produce such [injury] [damage] or some similar injurious result. (The defendant’s act need not have been the only cause, nor the nearest cause. It is sufficient if it occurred in combination with some other cause, acting at the same time, that caused the death of the user).

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant unlawfully delivered (a) controlled substance(s), (*name controlled substance(s)*) [is a] [are] controlled substance(s), that the defendant acted with malice, that the ingestion of (that) (these) controlled substance(s) caused the death of the user, and that the defendant’s unlawful delivery of the controlled substance(s) was the proximate cause of the user’s death, it would be your duty to return a verdict of guilty of death by distribution through unlawful delivery with malice of (a) certain controlled substance(s). If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. “Certain Controlled Substances” is defined under N.C. Gen. Stat. § 14-18.4 as any opium, opiate, or opioid; any synthetic or natural salt, compound, derivative, or preparation of opium, opiate, or opioid; cocaine or any other substance described in G.S. 90-90(1)(d); methamphetamine; a depressant described in G.S. 90-92(a)(1); or a mixture of one or more of these substances.

2. If the delivery of more than one controlled substance is alleged, then edit this element accordingly.