

N.C.P.I.-Crim. 207.98  
ENGAGING IN SEXUAL [CONTACT] [PENETRATION] UNDER PRETEXT OF  
MEDICAL TREATMENT – INCAPACITATED PATIENT. FELONY.  
GENERAL CRIMINAL VOLUME  
JUNE 2020  
N.C. Gen. Stat. § 14-27.33A(b).  
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207.98 ENGAGING IN SEXUAL [CONTACT] [PENETRATION] UNDER  
PRETEXT OF MEDICAL TREATMENT—INCAPACITATED PATIENT. FELONY.

The defendant has been charged with engaging in sexual [contact]  
[penetration] with an incapacitated patient.

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

First, that the defendant undertook medical treatment of a patient.  
Medical treatment includes an examination or procedure. A patient is a  
person who has undergone or is seeking to undergo medical treatment.

Second, that, in the course of that medical treatment, the  
defendant engaged in sexual [contact] [penetration] with the patient.

[Sexual contact is the intentional touching of a person's intimate  
parts or the intentional touching of the clothing covering the immediate  
area of the person's intimate parts, if that intentional touching can  
reasonably be construed as being for the purpose of sexual arousal or  
gratification, done for a sexual purpose, or done in a sexual manner.]

[Sexual penetration is [sexual intercourse] [cunnilingus] [fellatio]  
[anal intercourse] [any intrusion, however slight, of any part of a  
person's body or of any object into the genital or anal openings of  
another person's body, regardless of whether semen is emitted, if that  
intrusion can reasonably be construed as being for the purpose of sexual  
arousal or gratification, done for a sexual purpose, or done in a sexual  
manner.]

And Third, that the defendant engaged in this sexual [contact]  
[penetration] with the patient while the patient was incapacitated. A  
patient is incapacitated if the patient is incapable of appraising the

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nature of a medical treatment, either because the patient is unconscious or under the influence of an impairing substance.<sup>1</sup>

If you find from the evidence beyond a reasonable doubt that on or about the alleged date the defendant undertook medical treatment of a patient, that in the course of that medical treatment the defendant engaged in sexual [contact] [penetration] with the patient, and that the defendant engaged in this sexual [contact] [penetration] with the patient while the patient was incapacitated, it would be your duty to return a verdict of guilty. 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.

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<sup>1</sup>. Impairing substances include, but are not limited to, alcohol, anesthetics, controlled substances listed under Chapter 90 of the General Statutes, or any other drug or psychoactive substance capable of impairing a person's physical or mental faculties.