

N.C.P.I.—Crim. 220.41

MAKING A MATERIALLY [FALSE] [MISLEADING] STATEMENT ABOUT A [SUBSTANCE USE DISORDER TREATMENT SERVICE] [RECOVERY RESIDENCE] IN MARKETING MATERIALS WITH THE INTENT TO DEFRAUD. FELONY.

GENERAL CRIMINAL VOLUME

APRIL 2024

N.C. Gen. Stat. § 90-113.151(c)(1)

220.41 MAKING A MATERIALLY [FALSE] [MISLEADING] STATEMENT ABOUT A [SUBSTANCE USE DISORDER TREATMENT SERVICE] [RECOVERY RESIDENCE] IN MARKETING MATERIALS WITH THE INTENT TO DEFRAUD. FELONY.

The defendant has been charged with making a materially [false] [misleading] statement about a [substance use disorder treatment service] [recovery residence] in marketing materials with the intent to defraud.

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

First, that the defendant was a [treatment provider]¹ [treatment facility]² [recovery residence]³ [[third party providing services to any [treatment provider] [treatment facility] [recovery residence]].

Second, that the defendant knowingly⁴ [made a materially [false] [misleading] statement] [provided [false] [misleading] information].

And Third, that the defendant did so with the intent⁵ to defraud any person about the [[nature] [identity] [location]] [[of substance use disorder treatment services] [in a recovery residence] [in advertising materials] [on a call line] [on an internet website] [in any other marketing materials]].

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant was a [treatment provider] [treatment facility] [recovery residence] [[third party providing services to any [treatment provider] [treatment facility] [recovery residence]] and knowingly [made a materially [false] [misleading] statement] [provided [false] [misleading] information] with the intent to defraud any person about the [[nature] [identity] [location]] [[of substance use disorder treatment services]

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[in a recovery residence] [in advertising materials] [on a call line] [on an internet website] [in any other marketing materials]] (nothing else appearing),⁶ 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.

1. "Treatment provider" means a person or entity that is, or is required to be, licensed, accredited, or certified to provide substance use disorder treatment services. For purposes of this Article, the term includes treatment facilities. N.C. Gen. Stat. § 90-113.150(5).

2. "Treatment facility" means a facility or program that is, or is required to be, licensed, accredited, or certified to provide substance use disorder treatment services. N.C. Gen. Stat. § 90-113.150(4).

3. "Recovery Residence" means "a shared living environment that is, or is intended to be, free from alcohol and illicit drug use and centered on peer support and connection to services that promote sustained recovery from substance use disorders." N.C. Gen. Stat. § 90-113.150(2).

4. A person acts "knowingly" when the person is aware or conscious of what he or she is doing.

5. For a definition of intent see N.C.P.I.—Crim. 120.10.

6. N.C. Gen. Stat. § 90-113.153 provides that this does not apply to "[a] general hospital licensed under Article 5 of Chapter 131E of the General Statutes" or "[a] hospital authority organized under Article 2 of Chapter 131E of the General Statutes." See *State v. Carey*, 273 N.C. App. 593, 849 S.E.2d 111 (2020) (holding that the language "'does not apply' is exculpatory, and is not an underlying element of the offense.>").