N.C.P.I.—Crim. 220.48
[SOLICITING] [RECEIVING] ANYTHING OF VALUE IN RETURN FOR THE
[ACCEPTANCE] [ACKNOWLEDGEMENT] OF TREATMENT FROM A [HEALTH
CARE PROVIDER] [HEALTH CARE FACILITY]. FELONY.
GENERAL CRIMINAL VOLUME
APRIL 2024
N.C. Gen. Stat. § 90-113.152(a)(3)

220.48 [SOLICITING] [RECEIVING] ANYTHING OF VALUE IN RETURN FOR
THE [ACCEPTANCE] [ACKNOWLEDGEMENT] OF TREATMENT FROM A
[HEALTH CARE PROVIDER] [HEALTH CARE FACILITY]. FELONY.

The defendant has been charged [soliciting] [receiving] anything of value in return for the [acceptance] [acknowledgement] of treatment from a [health care provider] [health care facility].[1]

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

<u>First</u>, that the defendant was a [treatment provider][2] [treatment facility][3] [recovery residence][4] [third party providing services to any of these persons or entities].

<u>And Second</u>, that the defendant knowingly[5] [[solicited] [received] anything of value [[directly] [indirectly] [[in cash] [in kind]]] [engaged in any split-fee arrangements] in return for the [acceptance] [acknowledgement] of treatment from a [health care provider] [health care facility].

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 of these persons or entities] and knowingly [[solicited] [received] anything of value [[directly] [indirectly] [[in cash] [in kind]]] [engaged in any split-fee arrangements in any form whatsoever] in return for the [acceptance] [acknowledgement] of treatment from a [health care provider] [health care facility] (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 both of these things, it would be your duty to return a verdict of not guilty.

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1. The statute also punishes knowingly aiding or abetting any conduct that violates this section.

2. "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).

3. "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).

4. "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. § 90-1113.150(2).

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

6. This does not apply to any discount, payment, waiver of payment, or payment practice that is expressly authorized by 42 U.S.C. § 1320a-7b(b)(3) or any regulation adopted under that statute. Additionally, this statute does not apply to a reasonable contingency management technique or other reasonable motivational incentive that is part of the treatment provided by an accredited, licensed, or certified treatment provider. N.C. Gen. Stat. § 90-113.153 also 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.").