

242.15 CULPABLY NEGLIGENT PATIENT ABUSE RESULTING IN DEATH.
FELONY.

The defendant has been charged with culpably negligent physical abuse of a [patient of a health care¹] [resident of a residential care²] facility resulting in the [patient's] [resident's] death.

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

First, that the victim was a [patient of a health care] [resident of a residential care] facility.

Second, that the defendant physically abused³ the [patient] [resident] by (*describe the physical abuse*).

Third, that the defendant's conduct was culpably negligent in physically abusing the [patient] [resident]. Culpable negligence is conduct of a willful, gross and flagrant character, evincing reckless disregard for human life.⁴

And Fourth, that the defendant's conduct proximately caused the [patient's] [resident's] death. Proximate cause is a real cause, a cause without which the victim's death would not have occurred.

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the victim was a [patient of a health care] [resident of a residential care] facility, the defendant physically abused the [patient] [resident], the defendant's conduct was culpably negligent and the defendant's conduct proximately caused the [patient's] [resident's] death, 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. N.C. Gen. Stat. § 14-32.2(c) defines "health care facility" as "hospitals, skilled nursing facilities, intermediate care facilities, intermediate care facilities for the mentally retarded, psychiatric facilities, rehabilitation facilities, kidney disease treatment centers, home health agencies, ambulatory surgical facilities, and any other health care related facility whether publicly or privately owned."

2. N.C. Gen. Stat. § 14-32.2(c1) defines "residential care facility" as "adult care homes and any other residential care related facility whether publicly or privately owned."

3. N.C. Gen. Stat. § 14-32.2(e1) defines "abuse" as "the willful or culpably negligent infliction of physical injury or the willful or culpably negligent violation of any law designed for the health or welfare of a patient or resident."

4. N.C. Gen. Stat. § 14-32.2(e).