

242.25 PATTERN OF PATIENT ABUSE RESULTING IN BODILY INJURY.
FELONY.

NOTE WELL: The injury required is bodily injury. A "pattern of patient abuse" (N.C.P.I. 242.25) does not require that the injury be serious bodily injury only that there be bodily injury. N.C. Gen. Stat. § 14-32.2(a)-(b) (4).

The defendant has been charged with a pattern of willful or culpably negligent physical abuse of a [patient of a health care²] [resident of a residential care³] facility resulting in bodily injury.

For you to find the defendant guilty of this offense, the State must prove five 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 abused⁴ the [patient] [resident] by (*describe the physical abuse*).

Third, that the defendant's conduct was [willful] [culpably negligent]. (Culpable negligence is conduct of a willful, gross and flagrant character, evincing reckless disregard for human life.⁵).

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

And Fifth, that the defendant's conduct shows a pattern of [willful] [culpably negligent] conduct. A pattern is two or more instances of similar conduct. (*Describe the instances of similar conduct.*)

If you find from the evidence beyond a reasonable doubt that on or

about the alleged dates, 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 [willful] [culpably negligent], the defendant's conduct proximately caused bodily injury to the [patient] [resident], and the defendant's conduct shows a pattern of conduct, 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. See e.g., *McCoy v. Coker*, 174 N.C. App. 311 (2005) (defining bodily injury as any physical harm, including sickness or disease, to the physical health of any person".) bodily injury. Physical damage to a person's body. BLACK'S LAW DICTIONARY (8th ed. 2004)

2. 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."

3. 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."

4. 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."

5. N.C. Gen. Stat. § 14-32.2(e).