

ASSAULT IN THE SECOND DEGREE
(Unlawful Administration of Drugs)
Penal Law § 120.05(5)
(Committed on or after Sept. 1, 1967)

The (specify) count is Assault in the Second Degree.

Under our law, a person is guilty of Assault in the Second Degree when, for a purpose other than lawful medical or therapeutic treatment, that person intentionally causes stupor, unconsciousness, or other physical impairment or injury to another by administering to such other person, without his or her consent, a drug, substance, or preparation capable of producing the same.

The following term used in that definition has a special meaning:

Intent means conscious objective or purpose. Thus, a person INTENTIONALLY causes stupor, unconsciousness, or other physical impairment or injury to another, when that person's conscious objective or purpose is to do so.¹

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, each of the following three elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), intentionally caused stupor, unconsciousness, or other physical impairment or injury to (specify).
2. That the defendant did so by intentionally administering to (specify), without his/her consent, a drug, substance or preparation capable of producing stupor, unconsciousness, other physical impairment or injury; and

¹ See Penal Law § 15.05(1).

3. That the defendant did so for a purpose other than lawful medical or therapeutic treatment.

If you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of this crime.

If you find that the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of this crime.