

**CRIMINAL SALE OF A CONTROLLED SUBSTANCE
FOURTH DEGREE
(C Felony)**

**PENAL LAW 220.34(1)
(A Narcotic Preparation)
(Committed on or after Sept. 1, 1979)**

**PENAL LAW 220.34(3)
(Concentrated Cannabis)
(Committed on or after Sept. 1, 1979)**

**PENAL LAW 220.34(5)
(Methadone)
(Committed on or after Sept. 1, 1979)**

The _____ count is Criminal Sale of a Controlled Substance in the Fourth Degree.

Under our law, a person is guilty of Criminal Sale of a Controlled Substance in the Fourth Degree when that person knowingly and unlawfully sells a narcotic preparation [*or* concentrated cannabis] [*or* methadone].

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: [“narcotic preparation”], “sell,” “knowingly,” and “unlawfully.”¹

[The term NARCOTIC PREPARATION includes (specify).²]

SELL means to sell, exchange, give or dispose of to another [*or* to offer or agree to do the same].³

A person KNOWINGLY sells (specify) when that person is aware that he or she is selling a substance which contains (specify).⁴

A person UNLAWFULLY sells (specify) when that person has no legal right to sell that substance.⁵ Under our law, with certain exceptions not applicable here, a person has no legal right to sell

If in issue, a definition of the “concentrated cannabis” can be found in Public Health Law § 3302(5).

See, Penal Law § 220.00(8) (narcotic preparation).

See, Penal Law § 220.00(1).

See, Penal Law § 15.05(2) and *People v Ryan*, 82 NY2d 497 (1993).

See, Penal Law § 220.00(2) and Public Health Law § 3396(1).

(specify).

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, both of the following two elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), sold a substance containing (specify); and
2. That the defendant did so knowingly and unlawfully.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Criminal Sale of a Controlled Substance in the Fourth Degree as charged in the ___ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Criminal Sale of a Controlled Substance in the Fourth Degree as charged in the ___ count.