

14-4404. Failure to retain records; treatment, services or goods and value.

For you to find the defendant guilty of failure to retain records as charged in Count _____, the State must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant received payment for treatment, services or goods under the program.
2. The defendant [intentionally failed to retain records¹ for a period of at least five years from the date payment was received] [knowingly destroyed or caused those records to be destroyed within the five years from the date payment was received]².
3. The treatment, services or goods for which records were not retained amounts to \$ _____^{3,4}.
4. This happened in New Mexico on or about the _____ day of _____, _____⁵.

USE NOTES

1. The statute identifies four applicable categories of medical and business records as records relating to: 1) the treatment or care of any recipient; 2) services or goods provided to any recipient; 3) rates paid by the department under the program on behalf of any recipient; and 4) any records required to be maintained by regulation of the department for administration of the program. See NSMA 1978, § 30-44-5(A)(1)-(4) (1989). This instruction applies to records relating to: 1) the treatment or care of any recipient or 2) services or goods provided to any recipient.
 2. Use only the applicable bracketed elements established by the evidence.
 3. Insert monetary value.
 4. Whoever commits the crime of failure to retain records is guilty of a misdemeanor if the treatment, services or goods for which records were not retained amounts to not more than one thousand dollars (\$1,000.00). If the value of the treatment, services or goods for which records were not retained is more than one thousand dollars (\$1,000.00), the defendant is guilty of a fourth degree felony. See NMSA 1978, § 30-44-5(C)(1)-(2).
 5. The applicable definition or definitions from UJI 14-4401 NMRA must be given after this instruction.
- [Adopted by Supreme Court Order No. 14-8300-005, effective for all cases filed or pending on or after December 31, 2014.]