

**ISSUING A FALSE CERTIFICATE**  
**Penal Law § 175.40**  
**(Committed on or after Sept. 1, 1967)**

The (*specify*) count is Issuing a False Certificate.

Under our law, a person is guilty of Issuing a False Certificate when, being a public servant authorized by law to make or issue official certificates or other official written instruments, and with intent to defraud, deceive or injure another person, he or she issues such an instrument, or makes the same with intent that it be issued, knowing that it contains a false statement or false information.

The following terms used in that definition have a special meaning:

WRITTEN INSTRUMENT means any instrument or article, including computer data or a computer program, containing written or printed matter or the equivalent thereof, used for the purpose of reciting, embodying, conveying or recording information, or constituting a symbol or evidence, of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.<sup>1</sup>

PUBLIC SERVANT means any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state, or any person exercising the functions of any such public officer or employee. [The term public servant includes a person who has been elected or designated to become a public servant.]<sup>2</sup>

INTENT means conscious objective or purpose. Thus, a person acts with intent to defraud, or makes an official certificate

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<sup>1</sup>See Penal Law §175.00(3).

<sup>2</sup>See Penal Law §10.00(15).

or other official written instruments with intent that it be issued, when that person's conscious objective or purpose is to do so.<sup>3</sup>

[PERSON means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or governmental instrumentality.<sup>4</sup>]

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

1. That on or about (date), in the county of (county), the defendant (defendant's name) was a public servant authorized by law to make or issue official certificates or other official written instruments, and issued such an instrument, or made the same with intent that it be issued,
2. That the defendant did so knowing that it contained a false statement or false information, and
3. That the defendant did so with intent to defraud, deceive or injure another person,

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

If you find 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.

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<sup>3</sup>See Penal Law §15.05(1).

<sup>4</sup> Penal Law §10.00(7).

