IN THE CIRCUIT COURT OF [*county*] COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

v. [*case number*]

Hon. [*name*]

[*name-all caps*],

 Defendant.

DEFENDANT’S INSTRUCTION NO. \_\_\_\_

 The offense of “Possession of a Controlled Substance” is committed when a person knowingly or intentionally possesses a controlled substance, when the controlled substance was not obtained directly from, or pursuant to, a valid prescription or order of a practitioner acting in the course of his or her professional practice.

 In order to prove the commission of this, the State must prove the guilt of the defendant beyond a reasonable doubt. The defendant is presumed by law to be not guilty of this charge and this presumption remains with [him] [her] throughout the trial. Therefore, the State of West Virginia must prove beyond a reasonable doubt that:

1. the defendant,

2. on the \_\_day of [insert month], {insert year],

3. in [insert county] County, West Virginia;

4. knowingly or intentionally

5. possessed

6. a controlled substance, specifically, [insert substance], a Schedule [insert] Controlled Substance,

7. without a valid prescription or order of a practitioner acting in the course of his or her professional practice.

 After consideration of all the evidence, if each of you is convinced beyond a reasonable doubt that the State has proven all these elements of Possession of a Controlled Substance, you may find the defendant guilty of as charged in Count \_\_ of the indictment. However, if any of you has a reasonable doubt as to any of these elements, you shall find the defendant not guilty.

GIVEN:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

REFUSED:\_\_\_\_\_\_\_\_\_\_\_\_\_

MODIFIED:\_\_\_\_\_\_\_\_\_\_\_\_

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 JUDGE