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 defendant has claimed [he] [she] was unconscious at the time of the offense of [insert offense]. The Court instructs you that being unconscious may eliminate the element of voluntariness for the offense.

 If the defendant introduces evidence of unconsciousness at the time the offense was committed, the State must prove beyond a reasonable doubt that the defendant’s actions were voluntary. {Insert, if applicable: If the defendant has introduced evidence of a medical condition that can render [him] [her] unconscious, then the State must prove beyond a reasonable doubt that the defendant acted both voluntarily and in reckless disregard of the safety of others.}

 Therefore, if you find, after consideration of all the evidence, that the defendant was conscious at the time of the offense [insert, if applicable, or the State has proved beyond a reasonable doubt that the defendant acted voluntarily and in reckless disregard of the safety of others], you may find [him] [her] guilty as charged in Count \_\_ of the indictment. If on the other hand, you find that the defendant was unconscious at the time of the offense [insert, if applicable: and if the State has failed to prove beyond a reasonable doubt that the defendant acted voluntarily and in reckless disregard for the safety of others], you must find the defendant not guilty.

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

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

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

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 JUDGE