

1 **14-985. Criminal sexual penetration; medical procedure.**

2 ~~[Evidence has been presented that]~~ An issue in this case is whether the criminal sexual
3 penetration was performed as part of a medically indicated procedure.

4 The burden is on the state to prove beyond a reasonable doubt that the criminal penetration
5 was not performed as a part of a medically indicated procedure. If you have a reasonable doubt as
6 to whether the defendant performed the sexual penetration as part of a medically indicated
7 procedure, you must find the defendant not guilty.

8

9

USE NOTES

10 If there is an issue as to whether “sexual penetration,”^[7] as defined by ~~[Subsection A of~~
11 ~~Section 30-9-11 NMSA 1978]~~ NMSA 1978, Section 30-8-11(A) (2009), was performed as part of
12 a medically indicated procedure, this instruction must be given. If this instruction is given, the
13 following should be added to the essential elements instruction: “The penetration was not
14 performed as part of a medically indicated procedure.”^[7]

15 [Adopted, effective January 1, 1997; as amended by Supreme Court Order No. 20-8300-004,
16 effective for all cases pending or filed on or after December 31, 2020.]