

An off-duty doctor was jogging one evening when he came upon an elderly woman who had suffered a severe heart attack while walking her dogs. The woman was not breathing, and the doctor could barely detect a pulse. The doctor immediately began CPR on the woman while a bystander called 911. The doctor was able to resuscitate the woman but, in the process of performing CPR, broke several of her ribs. The broken ribs punctured the woman's lungs, causing them to collapse and leaving her unable to breathe. Because the doctor did not have the necessary medical instruments to release the air that was trapped inside of the woman's lungs, the doctor did nothing further to help her. The woman subsequently died from suffocation before an ambulance arrived.

Is the doctor criminally liable for the woman's death?

- A. No, because it was not reasonably possible for the doctor to help the woman.
- B. No, because the doctor was not under a legal duty to help the woman.
- C. Yes, because the doctor, as a medical professional, was under a legal duty to help the woman.
- D. Yes, because the doctor stopped rendering aid to the woman after breaking her ribs.

Explanation:

Legal duty to act

(subject to criminal liability if breach)

Special relationship	Parent/child, spouses, employer/employee
Assumption of care	Once person renders aid, liable for making victim's condition worse (ie, detrimental undertaking)
Created risk of harm	Person who falsely imprisons another & fails to provide food is liable for resulting death
Statute imposes duty	"Off-duty nurses must render aid to injured persons"
Contract imposes duty	"Employer will administer first aid in case of emergency"

Mnemonic: **Specific Acts Can Spawn Crimes**

Criminal liability can arise from a **failure to act** (ie, an **omission**) if the defendant:

had a **legal duty to act** *and*
could have **reasonably** done so.

A **legal duty** to act is imposed when a person **voluntarily assumes care of another**—eg, by rendering aid in a medical emergency. As a result, a voluntary rescuer has a duty to take all reasonable steps to provide care to the rescuee and may be criminally liable for omissions during the process. But such omissions will **not result in criminal liability** if the omitted action **could not reasonably be performed**.

Here, by rendering aid after finding the woman unconscious, the doctor voluntarily assumed a legal duty to take all reasonable steps to help her (**Choice B**). However, he subsequently failed to relieve the pressure in the woman's lungs caused by his administration of necessary CPR. But since the doctor lacked the medical equipment necessary to do so, it was not reasonably possible for him to perform the omitted act. Therefore, he is not criminally liable for the woman's death (**Choice D**).

(**Choice C**) The doctor was not under a legal duty to help the woman simply because he was a medical professional. Instead, his duty to act on the woman's behalf was imposed when he voluntarily assumed care of the woman by rendering aid.

Educational objective:

Criminal liability can arise from a failure to act if the defendant had a legal duty to act (eg, by voluntarily assuming care of another) and could have reasonably done so. However, omissions in performing that duty will not result in criminal liability if the omitted action could not reasonably be performed.

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