

An elderly woman was visiting a friend in a sizeable nursing home. After the woman's visit, she attempted to leave the facility. However, a nurse mistakenly believed that the woman was one of the residents and told her to remain on the premises. The woman protested and tried to explain that she was actually a visitor, but the nurse did not believe her. Instead, the nurse guided the woman toward an empty room and told her to wait there until he could verify her identity. The woman refused to enter the room, so the nurse pulled out a syringe and said, "Do I need to give you a sedative or are you going to listen to me?" The woman reluctantly entered the room, and the nurse told the woman to stay in there until he got back. He then closed the door behind him but did not lock it. Thirty minutes later, the nurse returned, apologized for the misunderstanding, and told the woman that she could leave. The woman subsequently filed a criminal complaint against the nurse, and he was charged with false imprisonment.

Is the nurse guilty of false imprisonment?

- A. No, because the nurse mistakenly believed that the woman was a patient.
- B. No, because the woman was free to leave the unlocked room.
- C. Yes, because the nurse intended to lawfully confine a patient, not a visitor.
- D. Yes, because the woman's consent was not freely given.

## Explanation:

### False imprisonment

Unlawful – not consented to or specifically authorized by law

Confinement – forcing person to go or remain where he/she does not wish when no alternative routes are available

Without consent – not freely agreed to by someone with capacity to do so

**False imprisonment** is the unlawful confinement of a person without consent. A **confinement** occurs when a person is compelled through actual force, threat of force, or a show of force to either

go where the person does not want to go *or*

remain where the person does not want to remain.

The confinement is **unlawful unless** it is specifically authorized by law or **consented to** by the victim. However, consent is only effective if it was **freely given** (ie, without force or fraud) and the victim had the capacity to consent.

Here, the elderly woman was confined when the nurse threatened to give the woman a sedative unless she entered the room. Although the woman subsequently agreed to enter, her actions did not constitute consent because her compliance was not freely given—it was made in response to the nurse's threat of force. Therefore, the confinement was unlawful.

However, **mistake of fact** is a **defense** to false imprisonment and other **general intent crimes**—which require only the intent to perform an act that is unlawful—if the mistake was **honest and reasonable** and **negates the requisite mens rea**. The mens rea required for false imprisonment is the intent to unlawfully confine another.

Here, the nurse may have honestly and reasonably believed that the elderly woman was a resident. But mistake of fact is not a defense because the nurse could *not* have threatened and confined a nursing home resident in that manner. Such confinement would have also been unlawful. Therefore, the mistake does not negate the requisite mens rea and the nurse is guilty of false imprisonment (**Choices A & C**).

**(Choice B)** Although the door was left unlocked, the woman was still confined because she remained in the room due to the nurse's threat of force.

### Educational objective:

False imprisonment is the unlawful confinement of a person without consent. Consent is effective only if the victim gave it freely and had the capacity to consent. Mistake of fact is a defense to this general intent crime only if the mistake was honest and reasonable.

