

A woman was driving home from a crowded shopping mall when a passenger van ran through a stoplight at great speed and hit the woman's car. A physician who witnessed the incident pulled over to the woman's car and saw that her shoulder was seriously injured. The physician told the woman he was a licensed surgeon before helping her out of the car. The woman was delirious and too shaken to speak as the physician removed several glass fragments from her shoulder and applied temporary sutures to close the wound. When the physician finished, he took the woman's contact information and promised to check on her condition later.

If the physician subsequently sends the woman a bill for his services, will she be obligated to pay it?

- A. No, because it would be unconscionable to require that the woman pay for the physician's emergency medical services.
- B. No, because the physician had a duty to render aid to the woman once he saw that she was injured.
- C. Yes, because an implied-in-fact contract was created when the woman allowed the physician to treat her.
- D. Yes, because the law will imply a promise to pay for emergency services the physician rendered to the woman.

Explanation:

In the absence of any contractual relationship between the parties, courts have the power to construct an **implied-in-law ("quasi") contract** to prevent unjust enrichment when:

the plaintiff has conferred a **measurable benefit** (eg, medical services) on the defendant
the plaintiff acted **without gratuitous intent** *and*

it would be **unfair** to let the defendant **retain the benefit** without compensating the plaintiff.

Unfair retention of a benefit arises when (1) the defendant had an opportunity to decline the benefit but knowingly accepted it or (2) the plaintiff had a reasonable excuse for not giving the defendant such opportunity—often because of an emergency. This allows the plaintiff in a quasi-contract action to recover **restitutionary damages** equal to the reasonable value of the benefit conferred.

Here, the physician conferred a measurable benefit on the woman when he removed glass from her shoulder and closed the wound. Medical services are typically provided with the expectation of compensation. And since the woman was delirious and too shaken to speak, it was reasonable for the physician to act without obtaining her express consent. Therefore, she must pay the physician's bill because the law will imply a promise to pay for his service.

(Choice A) Allowing the woman to retain a benefit without compensating the physician would be unjust—not unconscionable. Unconscionability instead arises when a contract is so unfair to one party that no reasonable person in that position would have agreed to it.

(Choice B) The physician may have had a moral duty to aid the woman once he saw that she was injured, but he had no legal duty to do so.

(Choice C) An implied-in-*fact* contract arises when the parties' conduct (or failure to act) demonstrates their mutual intent to contract. But here, a court would *not* find that the woman intended to contract with the physician since she was delirious and unable to speak.

Educational objective:

Courts will construct an implied-in-law ("quasi") contract where the plaintiff has conferred a measurable benefit on the defendant without gratuitous intent and it would be unfair to let the defendant retain the benefit without compensating the plaintiff.

References

Restatement (Third) of Restitution & Unjust Enrichment § 20 (Am. Law Inst. 2011)
(protection of another's life or health).

Examples of implied-in-law contracts



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