

HALOCHOSCOPE

Note on last week's conclusion:

Although the source for the conclusion mentions the three types of set of *kolos*, and no more [Mateh Efraim 601:13], there are varying explanations. The simple reading is a total of ten *kolos* [Nitei Gavriel 49:3 note 5]. This is based on the concept that the basic Scriptural requirement is nine *kolos*. One view is that the three versions of the middle *kol* are all valid Scripturally. Accordingly, one set of each is perfectly sufficient Scripturally. The other view is that the three versions are due to doubt. Since the middle *kol* is in question, one needs nine of each type to satisfy the bare minimum. [Tur BY SA OC 490:1, commentaries.] Thus, one secondary source maintains that this means three of each type, totaling thirty *kolos* [Kaf Hachaim 600:13]. However, to read this into the primary source is tenuous [Kinyan Torah bahalacha III:79:3]. The same primary source states explicitly regarding another situation where the barest minimum should be blown that the number is 'ten', and no more [Mateh Efraim 586:7 cited also by MB 586:22]. The dissenting view reinterprets this as well [Kaf Hachaim 586:41], saying 'ten' really means 'thirty' based on the same reasoning. Usually, this would not be relied on as an interpretation, but it may stand alone on its own merit. Given the lenient ruling in our case, allowing blowing after *kabolas Shabbos*, a *rav* might choose to allow thirty *kolos*, time permitting.

This week's question:

A diabetic cannot fast without jeopardizing his blood sugar level, and endangering his life. A doctor has told him that as long as he monitors his blood sugar level all day, using a glucometer every hour, he may commence the fast. He might be able to complete it in this fashion. However, using a glucometer involves various *melachos*. On a regular *Shabbos* or *Yomtov*, he has no choice but to use it a few times a day. Here, he will be using it many more times. Should he rather not fast?

The issues:

- A) Fasting on *Yom Kippur*
- B) Breaking the fast due to illness
- C) Those who are exempt from fasting; those forbidden to fast
- D) The *melachos* involved in measuring blood sugar and in using a glucometer; violating them for *pikuach nefesh*, life-threatening danger
- E) Balancing a present situation against anticipated possibilities

A) Fasting on *Yom Kippur*

The Torah does not specify what is forbidden on *Yom Kippur*, apart from the prohibition of *melacha*, constructive activity, and *shabason*, the *mitzvah* to 'rest'. The Torah does say that one must afflict himself. This is worded in the form of a positive *mitzvah*. Through the grammatical rules of *derush* the Talmud shows that it is really a negative *mitzvah*. Violating the *mitzvah* is punishable by *kareis*, excision, or being cut off from the spiritual roots of the Jewish people and from their special connection to Hashem. As a negative *mitzvah*, it can also be punishable in a *bais din* with *malkos*, lashes, if the perpetrator was given due warning. [In the absence of the Sanhedrin, Rabbinical high court, and true *semicha*, ordination, this does not apply nowadays.]

The Talmud discusses the meaning of *inuy*, self-affliction. The obvious meaning would be to actively afflict oneself by sitting in the heat or in the cold. [Beating the chest is symbolic, and has little to do with *inuy*.] However, the choice of language indicates a passive form of *inuy*. Furthermore, the context of the *mitzvah* indicates that the type of *inuy* carries a penalty in other situations. That is, it indicates refraining from an action that could otherwise be considered a violation of some other restriction. The Talmud further derives from the terminology '*veha'avadti es hanefesh*', [Hashem] will destroy the soul, of one who [violates *Yom Kippur* by] not practicing self-affliction, that the *inuy* has to do with what is needed to sustain life. Accordingly, the Talmud says that the *inuy* intended is to refrain from eating and drinking.

The Talmud adds another four *inuyim*: refraining from washing the skin, from rubbing and smearing the skin, from marital relations and from wearing shoes. Only eating and drinking can be considered *inuy* of *avaiadas nefesh*. Therefore, they are the only *inuyim* that carry the penalty. [See Yuma 73b-74b 76a-77b, Poskim. Chinuch 313, Tur Sh Ar OC 611-615, commentaries.]

B) Choleh on Yom Kippur

Most fasts are Rabbinically instituted, and a *choleh* is not obliged. For *Tisha B'av*, there are certain stringencies. *Yom Kippur*, is a Scripturally mandated fast. Therefore, special rules are required to exempt a *choleh*. Nonetheless, there are cases where a *choleh* does not fast in quite the same way that healthy people do. There are three basic levels of *choleh* with regard to allowing food or drink on *Yom Kippur*. If the person is in imminent life-threatening danger, his status is the same regarding *Yom Kippur* as it is regarding any *mitzvah* in the Torah, except for the three cardinal sins. Life-threatening danger overrides any other *mitzvah*. Just as one may violate any other *mitzvah* to save him, he may eat and drink. One may even slaughter, cook, carry or do any *melacha*, or violate anything, to save his life. If he is not in any imminent danger, but the lack of food or drink could lead to life-threatening danger, he is also considered in danger. However, as we shall explain, since it is only the food that is needed, we minimize the violation as much as possible. If there is no risk to his life, but his condition could worsen if he is not provided with food and drink, he may eat or drink. It is possible that when his condition worsens he will indeed become dangerously ill. Rather than wait to see, it is better to forestall the danger. Here, too, special consideration is given, but the violation is minimized as much as possible. If the *choleh* is in no danger, nor is there any reasonable possibility that he will deteriorate badly, he may not break his fast. This might require him to limit activity more than he would otherwise. For example, he might need to stay home or in bed. If, however, he is already bed-bound, or his condition is such that if he does not eat he will need to be sent to bed [not for rest, but because he will be too weak to stand or sit or because this will be dangerous for him], many would consider him in the category of one who could deteriorate to a state of danger.

To evaluate the *choleh*, various methods are acceptable. If the *choleh* himself feels so sick that he needs to eat, we rely on his own judgment, even over the opinion of a professional doctor. The *choleh* knows his own condition better. Food is placed before him, and he is told “Today is *Yom Kippur*”. The hope is that if he is seized by temptation of

the evil inclination, this will stop him. If he is truly sick, he will eat anyhow.

If a professional doctor claims that the *choleh* must eat, his opinion is accepted. In this case, if the *choleh* disagrees, we do not listen to him. Though he knows his own condition to feel unwell, even against a professional medical opinion, he is not relied on to feel well. The suspicion is that he is in the grip of *tunba*, a temporary loss of mind. This applies even if the patient is himself a professional doctor. If two doctors disagree about the evaluation, the patient should eat. In cases of doubt about danger to life, we tend to leniency – to save the life. The same is true if more doctors take sides. Some say that if one is a greater expert, his opinion is followed, and that as long as there is no majority, one tends to leniency. If there is a majority, it is followed. Others maintain that if there are many opinions, we always follow the lenient one. If it is between two doctors, and the patient sides with the stringent one, his feelings are accepted. [Since there is a professional medical opinion supporting him, he is trusted to say he is well.]

If the doctor is in doubt, the patient is fed. If one doctor is in doubt and another gives a stringent opinion, the patient is still fed. The poskim debate whether this applies even when the patient is the stringent doctor. However, if there are more than two doctors, we follow those who are certain, even if they are stringent. If the doctor is unfamiliar with the condition, his opinion is no better than an amateur. If most people think he is in danger, or will be in danger if he deteriorates, he is fed.

When feeding a *choleh* whose life is not in imminent danger, one tries to minimize the violation. First, the patient is given smaller amounts than the minimum, then one waits for the minimum time to lapse, before feeding him another *chatzi shiur*, and so on. If this does not resolve the situation, he is fed normally. If the patient is evaluated to require food and drink, and he refuses, he is liable for anything that happens to him. If he dies, it is considered a suicide. If necessary, he should be force-fed. If he does eat, by force, due to his feeling ill, or due to his following the medical opinion, he does not require atonement. He is considered *oness*, an unwilling violator due to circumstances beyond his control. [See Yuma 82a-84b, Poskim. Tur Sh Ar OC 618, commentaries.]

C) Those exempt and forbidden to fast

In our case, a decision must be made on whether the person is obliged to fast. Usually, if one is not obliged but tries anyhow, he can gain credit on a lower level, known as *aino metzuveh ve'oseh*. However, if this endangers his life, he is forbidden to perform the *mitzvah*, as mentioned. In our case, there is an additional issue. Assuming that he is not obliged, but might be able to do so anyhow by testing his blood sugar, he will need to do *melachos*. Since he is not obliged to get into the situation, he may not voluntarily get into a situation that leads to additional *melacha*. The question is, does his method of testing hourly put him into the category of obliged, or at least take him out of the category of forbidden? If so, does this permit him to test additional times?

A diabetic risks hypoglycemia. One symptom is blurred vision, and taking food (sugar) is the solution. The Talmud, discussing who should break his fast, describes these symptoms for *bulmus*, probably bulimia, but possibly a catch-all example. It might actually refer to hypoglycemia as well. Furthermore, upsetting his control for a day can affect the diabetic longer term. The patient must follow the advice of the doctor, based on his

predictions. Since the hourly testing method was suggested by a physician, we assume that this is safe, from the *halachic* perspective. Accordingly, the doctor believes that the patient is in no danger from fasting, unless his blood sugar goes down. Therefore, it would appear that he may fast, and perhaps should indeed attempt to. [See Section C.]

D) Melachos involved

Testing blood sugar involves *chovel*, injuring, bruising or the act of removing blood. If there was no purpose in gaining the blood, the *melacha* could be considered non-constructive, but the blood is clearly needed here. [The hole also involves creating an opening. In this case, the hole is only to remove, and not to allow air back in. This lowers its severity.] Using the old strips involves *tzovaia*, dyeing. A glucometer does not involve *tzovaia*, but is an electronic instrument. Some poskim consider using it somewhat Scriptural *melacha*. Many poskim consider it Rabbinically forbidden to use. In addition, it involves writing. However, the impression is temporary. This means it is not Scriptural *melacha*. The digital record is not considered writing either. Thus, using the glucometer is less problematic than using the old strips. The main *melacha* is removing the blood. [See Shabbos 105a-b Eruvin 103b Kesubos 5b-6a, Poskim. Tur Sh Ar OC 316:8 328:48, commentaries. Tzitz Eliezer XIV:88 XVII:14. Nishmas Shabbos V:142.]

Since the patient is considered potentially dangerously ill, these *melachos* are permitted as prevention. However, in our case, the patient will be testing many more times than usual. Each test is its own *melacha*. The question is whether there is any dispensation to permit more frequent testing. This seems to depend on how the initial dispensation for *pikuach nefesh* works. If *chilul Shabbos* is *hutrah*, completely relaxed, it would seem to be permitted. If it is *dechuyah* temporarily suspended, one may not do more than the bare minimum. The poskim debate this. While the consensus is to follow the lenient view that for imminent danger it is *hutrah*, there is some debate on possible or delayed danger. Thus, some would consider it *dechuyah*. In that case, the issue is whether the need to fast is sufficient to permit additional *melacha*. [See References to Section B. Tur Sh Ar OC 328:2 Yeshuos Yaakov 3 7. etc. 329, commentaries. Shevet Halevi VIII:138.]

E) Chayei Shaah

In our case, the issue is whether one may permit extra testing if the patient could break his fast anyhow. When dealing with *pikuach nefesh*, one may assess the situation in the present. Thus, when the patient needs to test, he does so. At that moment, he is still fasting and he needs to know his blood sugar level to determine whether he needs to eat. Therefore, he may test at any point that there is a medical necessity to prevent danger to his life. Each time he tests, that *melacha* is permitted. One might suggest that he breaks his fast earlier, to avoid testing the extra times. However, according to the expert medical opinion, he does not need to break his fast automatically. Therefore, he continues fasting, and needs to test the extra times. [See Section B. Tur Sh Ar OC 328:4 11, commentaries.]

In conclusion, under medical advice, the diabetic may fast and test more regularly.

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