The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן שכ"ח סעיף ט'-י"ב

Overview

Siman 328 Seif 9:

If one's eyes or eye aches and it they are discharging water, if tears are flowing due to the pain, if they are discharging blood or if there is some other discharge and he is at the beginning of his illness, we desecrate Shabbos on his behalf.

- Although generally we do not desecrate Shabbos by performing a Biblical melacha to salvage a limb, the eyes are different since they are connected to the heart and constitute danger to the patient. (M.B. 22)
- The same is true if he is in the middle of his illness but if his condition already weakened, these conditions are not life threatening. (M.B. 24)

Siman 328 Seif 10:

Any condition that doctors identify as life-threatening, even if the condition appears on the outside of his skin, we desecrate Shabbos in order to treat. If one doctor maintains that treatment must be administered but another doctor says that it is not necessary we desecrate Shabbos for him. There is an opinion that maintains that one need not consult experts since everyone is considered an expert to some degree and in a case of doubt one could be lenient. Some maintain that this is true regarding Jews but a gentile that is not a doctor is not assumed to have expertise. If someone is being forced to violate a sever transgression, we do not desecrate Shabbos for his benefit.

- This is true even for a gentile doctor since he is an expert. Radvaz writes that a patient could insist on taking a medication over the protest of the doctor unless the doctor contends that the medication would be harmful. (M.B. 25)
- This is true only when the layman is familiar with the condition. Furthermore, he is not believed when contradicted by a doctor, even to be lenient. (M.B. 27)
- This is true even concerning an injury that is not internal but if a gentile is available to administer the treatment that would be preferred. (M.B. 28)
- We do not instruct one person to sin for the benefit of another. (M.B. 31)

Siman 328 Seif 11:

Regarding a patient who is dangerously ill and on Shabbos the doctors estimated that he will require eight days of reliable treatment which involves desecrating Shabbos, we do not wait until after Shabbos to begin the course of treatment so that they will only have to desecrate one Shabbos, rather they should begin the treatment immediately, even though it will involve desecrating two Shabbosos. See siman 278 whether it is permitted to extinguish a lamp so that the patient could sleep.

- This is different than seif 4 where it was known that delaying the treatment would not compromise the patient's care. (M.B. 32)

Siman 328 Seif 12:

When it is necessary to desecrate Shabbos for someone who is dangerously ill, an effort should be made that the treatment is administered by an adult male who is a ben da'as to the exclusion of a gentile, child or woman. Some maintain that if the treatment could be administered in an unusual manner without any sort of delay, a deviation should be employed. If the treatment could be administered by a gentile without any delay, it should be administered by a gentile and this is the custom. In a circumstance in which there is concern that the gentile will be lazy, the treatment should not be administered by a gentile.

- The concern is that one of these people may not be available and the patient could be placed in danger as they are sought. (M.B. 33)
- When there is a gathering of scholars the treatment should be administered by the scholars. (M.B. 34)
- Whenever something could be performed in a permitted manner, we do so rather than do it in a prohibited manner. Similarly, if one can employ a slight deviation that will not cause a significant delay and will not disturb the patient, that deviation should be employed since it is then only a Rabbinic violation. (M.B. 35)
- The same is true concerning a minor. (M.B. 36)
- Taz contends that this is not a proper custom since a Jew will respond more quickly, therefore if it is possible that one can save the patient's life and he is in definitive danger, the one who responds quickly will be praised. (M.B. 37)

Halacha Highlight

Two people lifting the telephone from the receiver

Rema Siman 328 Seif 10
דאם אפשר לעשות בלא דחוי
If it is possible to be performed without delay

Shulchan Aruch (סעי' י"ב) writes that when it is necessary to desecrate Shabbos for someone who is dangerously ill, an adult male should perform the necessary procedure and one should not look for a gentile, minor or woman to administer the procedure. Mishnah Berurah (ס"ק ל"ג) explains that the rationale behind this ruling is that if there was a priority for a gentile, minor or woman to perform that procedure, there is a concern that if they are not readily available one would erroneously search for one to administer the procedure and thereby delay administering the essential treatment. Rema adds that if it is possible to administer the treatment without postponement or delay by deviating from the normal manner in which the treatment is administered, one should make an effort to do so.

Poskim debate whether there is an advantage to have two people perform a *melacha* when it is possible for that *melacha* to be performed by a single person since the Gemara rules that when two people perform a *melacha* that could be performed by a single individual, they are exempt from liability. For example, when it is necessary to make a phone call on Shabbos, is it advantageous to having two people lift the phone from the receiver and press the buttons or not? According to some authorities, whenever it is possible to have two people share the performance of the *melacha* they should do so since that downgrades the transgression from Biblical to Rabbinic. Others disagree and contend that the principle that when two people perform a *melacha* together they are exempt is limited to where there is a particular measure of the *melacha* that must be performed to constitute a violation. Alternatively, when a *melacha* performed in steps and only the one who performs the final step is liable, when two people perform that final step they are exempt. Therefore, since picking up a telephone from the receiver constitutes a *melacha* and there is no first step or second step to the *melacha* the principle of two people performing the *melacha* does not apply and there is no advantage to having two people lift the receiver (פסקי תשובות אות ח').