

Ill, Prepared: Avoiding Something like the Plague, Part II

Should a physician get his hands dirty?

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In last week's article we discussed the Torah perspective on avoiding illness during an epidemic. We established that, despite some dissenting views, the halachic consensus accepts the fact that disease contagion poses a significant threat to those coming into contact with the infected. The provision of medical care to such individuals can therefore place the provider in danger.

Some *poskim* maintain that one is generally obligated to risk his own life in order to save another from certain danger;[1] others hold that doing so is permissible but not mandatory;[2] still others maintain that it is improper to do so.[3] This dispute notwithstanding, the consensus of contemporary *poskim* is that medical professionals may and should treat patients with contagious illnesses.

Even R' Chaim Palagi,[4]

who argues that a layman who wishes to avoid contact with the plague is being reasonable

and prudent, apparently does not object to a physician treating victims of the plague. The question before him was a dispute between a doctor who was treating

plague victims and wished to attend davening in shul and the other members of

the shul, who wished to bar him entry or at least require a partition between

him and them. While Rav Palagi sides with the worried congregants, he apparently has no problem with the doctor's conduct in treating the patients in

the first place.[5]

Contemporary *poskim* give various arguments for the treatment of contagious patients:

- As we saw last week, some early *poskim* are skeptical of the entire doctrine of contagion, and the medical community itself has changed its mind about the contagiousness of certain diseases.[6]
- The great merit of treating the sick will protect those thus engaged.[7]
- The Torah's commandment to heal the sick includes both contagious as well as noncontagious diseases.[8]
- Because treatment of the sick by medical professionals is normal and customary, and its absence would engender terrible chaos, it is not considered improper self-endangerment.[9] (A remarkable precedent advanced by R' Eliezer Yehuda Waldenberg for the idea that dangerous conduct is permitted insofar as it is normal and customary is a ruling by R'

Meir Eisenstadter (Maharam Ash) permitting voluntary military service even in wartime.[10])

- It is permitted to assume some risk in the course of earning one's livelihood.[11] (Precedents for this include the Noda Bihudah's tolerance of professional—as distinct from recreational—hunting,[12] and R' Menachem Mendel Krochmal's justification to hiring employees to perform dangerous tasks.[13])

Just what the doctor ordered

These arguments merely support the position that medical personnel *may* provide treatment even at risk to themselves, and Rav Waldenberg indeed concludes that it is permitted and a great mitzvah but not

necessarily mandatory. R' Yehoshua Neuwirth and R' Avraham-Sofer Abraham,

however, go further and argue that because medical professionals understand the

risks involved when they accept their positions, they thereby commit themselves

to do their duty even when it entails some low level of risk, and are thus *obligated*

to do so.[14]

In a situation of great risk, however, they are not required to endanger themselves, although they may do so if they wish.

R' Shmuel Wosner also rules that it is forbidden for

physicians who are able to help the sick to shirk their duty,[15]

although he provides no analytical basis for this position beyond the precedent

of a letter of R' Akiva Eiger discussing arrangements for attendants at quarantines

for Jewish cholera sufferers.[16]

All agree that when treating contagious patients, all possible means of self-protection should be utilized.

May those who are *moser nefesh* to heal *Klal Yisroel* be protected from all harm.

[1] *Hagahos*

Maimonios (Constantinople ed.) *Hilchos Rotzeiach* 1:15, cited by *Kesef Mishneh* *ibid.* 1:14 and *Beis Yosef C.M.* 426; *Shu"t Devar Eliyahu* (Warsaw 5644)

89.

[2] *Shu"t Igros*

Moshe Y.D. cheilek 2, 174:4 s.v. *ulefi hata'am shekasavti*

[3] *Shu"t Radvaz cheilek*

3, end of 627 (1052),

cited in *Pis'chei Teshuvah Y.D.* 157:15; Cf. *Sema* *ibid.* 2; *Shu"t Yad*

Eliyahu (Lublin)43;

Shu"t Maharam

Shik Y.D. 155

s.v. *um"sh ma' alaso; Ha'amek She'eilah she'ilta* 129:4

and *she'ilta* 147:4;

Shu"t Mishneh

Halachos (mahadura kama) 6:394.

[4]*Nishmas*

Kol Chai cheilek 2, *Y.D.* 49.

[5]This

point appears in *Shu"t Tzitz*

Eliezer cheilek 9, 17:5:11.

[6]*Ibid.*

osios 1-3

[7]*Ibid.*

os 4

[8]*Ibid.*

os 7

[9]*Ibid.*

os 8

[10]*Shu"t Imrei*

Eish 52.

Cf. *Shu"t Binyan*

Tzion 137.

[11]*Tzitz*

Eliezer *ibid.* *os* 9.

[12]*Shu"t Noda Bihudah*

mahadura tinyana Y.D. 10.

[13]*Shu"t Tzemach*

Tzedek 6.

See, however, *Shu"t Yad*

Eliyahu (Lublin) 28 (p. 33a)

for a dissenting view.

[14]*Nishmas*

Avraham (second expanded

edition) *Y.D.* (Vol. 2) 335:8:22 (p. 409).

I do not understand this argument; insofar as the risk is deemed significant enough to constitute forbidden self-endangerment, how can a prior commitment

override the prohibition? And in any event, this is merely pushing the question

back to the legitimacy of the initial decision to accept a job that entails such risk. Why should that itself be permitted if there is foreseeable danger involved?

[15]*Shu"t Sheivet*

HaLevi cheilek 8,251:7 (p. 219).

[16]*Igros Sofrim*, R' Akiva

Eiger #30 s.v. *gam niten* (p. 37).