

# Laws of Medical Treatment on Shabbat

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The permissibility of treatment of the ill on Shabbat varies from mandated and required even when numerous *melachot* would need to be violated, to permitted, provided it does not violate any *melachot*, to prohibited for the simple fact that it is medical treatment. What factors lead to such a great disparity?

The primary, crucial distinction at work here is between medical treatment that involves saving a life (*piku'ach nefesh*), which is permitted and even required, even if it means violating the normal rules of Shabbat, and providing medical treatment in other cases, regarding which the rules are more complex.

When is medical treatment required even if it involves violating *melachot*? The Rambam is very clear on this issue:<sup>1</sup>

It is forbidden to delay in violating Shabbat for a person who is dangerously ill (*choleh she-yesh bo sakkana*), as it says [in the Gemara, based on a verse]: “[Regarding the laws of the Torah] ‘man shall fulfill them and live,’<sup>2</sup> rather than fulfill them to die.”<sup>3</sup> We learn from here that the laws of the Torah are not to

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<sup>1</sup> Hilchot Shabbat 2:3. This passage is also cited in *Shemirat Shabbat Ke-Hilchatah* at the beginning of his discussion of the laws of *piku'ach nefesh* on Shabbat (32:1). Translation mine.

<sup>2</sup> Vayikra 18:5.

<sup>3</sup> The verse is cited, and the law is derived, in the Gemara Yoma 85b, where this explanation of Rav Yehuda in the name of Shmuel is one of many sources provided for the notion of saving lives overriding Shabbat observance (starting on 85a). Of the many possibilities suggested, this derivation is the Gemara's preferred

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achieve vengeance in the world, but rather they bring compassion, loving-kindness, and peace to the world. And those heretics who claim that this is a violation of Shabbat and it is prohibited, about them the verse states, “and I [God] have given them evil decrees, and laws by which they cannot live.”<sup>4</sup>

Thus the Rambam rules that when human life is in danger, violation of Shabbat that can help save the person’s life is not optional; it is obligatory. Earlier in the same chapter (2:2), the Rambam characterizes the approach one is to take to treating a dangerously ill person: “The general principle is: When it comes to a dangerously ill person, with regard to all matters that the sick person needs, Shabbat is to be treated just like a weekday.” Furthermore, he rules, based on the Gemara, these actions should not be carried out by children or by gentiles, but by adult Jews, to emphasize that this is not a questionable allowance but the proper mode of action. The *Shulchan Aruch* rules, based on overwhelming evidence, that it is a mitzvah to violate Shabbat for a dangerously ill Jew, with a premium placed upon swiftness to action.<sup>5</sup> Any treatment which is considered to be necessary for the patient’s treatment, or even if its exclusion carries a risk of deterioration, is to be provided on Shabbat.<sup>6</sup>

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source, because the Gemara understood this source to imply that even in cases of *safek*, where there is uncertainty regarding the life-saving value of the treatment, the violation is mandated.

<sup>4</sup> Yechezkel 20:25.

<sup>5</sup> Sec. 328:2, the first part based on the Gemara Yoma 84b, Rambam 2:1, and *Tur* 328:2, and the second part based on the Talmud Yerushalmi, Yoma 8:5. The *Mishna Berura* there (6) adds that if the sick person is wary of others violating Shabbat on his behalf, he should be coerced to change his mind, and informed that this is *chasedut shel shtut*, “foolish piety.”

<sup>6</sup> See *Be’ur Halacha* (328:4, s.v. *kol*), where he has a lengthy discussion of whether one can violate Shabbat even for treatment without which the patient’s life is not considered endangered, and concludes, based on numerous sources, that one cannot violate the Shabbat under such circumstances. Nonetheless, he ends off by explaining that anytime there is some chance that the person’s condition will deteriorate if the treatment is not administered, then Shabbat is to be violated to provide it. See also *Mishna Berura* 328:42.

As indicated above, the nature of situations where lives are in danger is such that time is of the essence. Any delay in carrying out the actions necessary to help the sick person, whether to ask a rabbi whether the actions are permitted, or anything else, is a grave violation, for it could lead to the deterioration of the person's condition. Anyone who is in a position to help is required to do so immediately.<sup>7</sup> There is an important theoretical debate that has some bearing upon this question, referred to in halachic literature as the question of whether life-saving actions that violate Shabbat are *huttera*, permitted altogether, or *dechuya*, set aside. While some authorities rule that the former is true, and thus any treatment that is deemed necessary is to be applied with no questions asked,<sup>8</sup> other authorities rule in accordance with the latter approach, that every necessary action overrides the Shabbat prohibition. Two exemplars of the latter approach are the Rema and the *Mishna Berura*, who rule that if the treatment can be provided in a manner that involves a lesser violation of Shabbat with *no delay* involved for the patient, then this is preferable. Thus, if one performs the action involved with a *shinui*, i.e., in a manner that is clearly different from the way the action is normally performed but does not detract from the effect or efficiency

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<sup>7</sup> The Talmud Yerushalmi, Yoma 8:5, has a very clear, three-part expression on this matter. First, the faster one acts the better. Second, one who is asked is looked upon negatively. (The implication is that one is asking a rabbi, who should have made clear in advance to people that saving lives takes precedence over Shabbat observance, so that they would act and not ask, as explained by the *Terumat Ha-Deshen* 58, quoted in the *Beit Yosef*, as well as in the *Korban Ha-Eida* on that Yerushalmi and in the *Aruch Ha-Shulchan* 328:1.) The third phrase is that one who consults with others rather than acting is considered to have spilled blood, as the sick person's status could deteriorate in the interim. This line is quoted in the *Tur* and the *Shulchan Aruch* (328:2, 13).

<sup>8</sup> This is the first view cited by *Mishna Berura* 328:39 from the Rosh in the name of the Maharam, though the *Mishna Berura* himself rejects it, as below. It is the position of the *Tashbetz* 3:37, s.v. *Ha-Ramban*, and the *Avnei Nezer* 2:455. For a full treatment of the differing views on the subject, see *Responsa Yechaveh Da'at* 4:30.

of the action, they rule that this is preferable.<sup>9</sup> However, even these authorities insist that if any substantive delay would result from the modification, it is to be avoided.

This does not mean that no advance preparation is necessary for anticipated cases of *piku'ach nefesh*. Rabbi Akiva states as a “general principle” in the Mishna on Shabbat 130a, in the context of a *berit mila* that will take place on Shabbat, that any preparatory activity that could have been done before Shabbat which involves a *melacha* cannot be done on Shabbat. In the case of *berit mila* on Shabbat, this factor is immanent, as such *beritot* only take place when the boy was born on the preceding Shabbat. This qualification is cited in the *Tur* and the *Shulchan Aruch*, in both Hilchot Shabbat<sup>10</sup> and Hilchot Mila.<sup>11</sup> By the same principle, a woman in her ninth month of pregnancy, when there is a reasonable chance that she may go into labor on Shabbat, should prepare whatever she can before Shabbat to minimize the need for Shabbat violations should she go into labor on Shabbat.<sup>12</sup> In most other cases of *piku'ach nefesh* for patients, the need is generally sudden and unexpected, in which case this principle does not apply. However, in other cases, where there is reason to suspect that some need may arise, such as a doctor on call, or in cases of ongoing care, where some preparation can be done in advance to minimize the violation on Shabbat, those preparations should be made. However, if there is a major inconvenience involved in the preparation, one is not obligated to do so.<sup>13</sup>

<sup>9</sup> Rema's comment on *Shulchan Aruch* 328:12, *Mishna Berura* 328:35. The *Mishna Berura* qualifies even further that if using a *shinui* would cause some slight delay that would not be critical to the patient's health, then it remains advisable.

<sup>10</sup> OC 331:6.

<sup>11</sup> YD 266:2.

<sup>12</sup> The earliest source I found for this is the *Sefer Chasidim* (the numbering varies in different editions, but it is 855 in the edition I found, same as the number cited by the *Mishna Berura*). This *Sefer Chasidim* is cited by the *Magen Avraham* and by the *Mishna Berura* (both in 330:1), and the *Mishna Berura* is cited by *Shemirat Shabbat Ke-Hilchatah* (32:34 and in nn. 1001–1102 there).

<sup>13</sup> *Shemirat Shabbat Ke-Hilchatah* in the above source, based on a ruling of Rav Shlomo Zalman Auerbach, cited in n. 104 there.

What qualifies as a sickness that can be treated on Shabbat? The Gemara, Rambam, *Tur*, and *Shulchan Aruch* all list many illnesses and situations for which one can violate Shabbat and for which one cannot.<sup>14</sup> Following is a short list of contemporary maladies based on a collection I saw, but clearly the general principle, rather than the particulars of the list, is the crucial factor. The principle is that one should violate the Shabbat for any malady which doctors, including gentile doctors,<sup>15</sup> say involves a danger to the life of the patient.<sup>16</sup> According to many views, even the opinion of a Jew who is not a medical expert can be relied upon in regard to violating Shabbat in the absence of a doctor.<sup>17</sup> As such, the main determination that needs to be made is whether the person's life is in danger, and, if so, what treatment is necessary and helpful to ameliorate that situation. It is worth noting that even if there is some doubt as to whether the person's life is in danger, or whether the particular action will contribute to the saving of the person's life, the action should be performed anyway; even *safek piku'ach nefesh*, actions that can reasonably be thought to contribute to *piku'ach nefesh* but lack certainty or even prevailing likelihood, are permitted, and even mandated, on Shabbat.

<sup>14</sup> Gemara Avoda Zara 27–29, Rambam 2:4–6, *Tur* and *Shulchan Aruch* in 328:9 list various illnesses one by one. There are lengthy discussions of what treatment is allowed and what treatment is not. But at the root of most of these discussions is the question of defining a particular situation as life-threatening or not.

<sup>15</sup> This is explicit in the *Mishna Berura* (328:25) and implicit in the *Shulchan Aruch* and Rema (328:10).

<sup>16</sup> Rambam 2:5, *Tur* and *Shulchan Aruch* (328:10).

<sup>17</sup> This is the ruling of the *Tur* (328:10), quoted as the view of the Ri, for which one can be lenient based on the rule *safek nefashot le'hakeil*, that in cases of doubt regarding performing *melacha* to save a life one should perform it, cited in the *Shulchan Aruch* there as the view of “some” without a dissenting view, so it is presumably accepted. The *Mishna Berura* there (*Be'ur Halacha*, s.v. *ve-yesh*) cites the views of the Rambam and the Ran, who disagree, and explains that the *Shulchan Aruch* cited this view based on the aforementioned principle. However, given that there is a dispute in the matter, the *Mishna Berura* recommends that it is proper to have a non-Jew perform the treatment if possible.

*The 39 Melochos* lists and goes into some detail regarding many situations as examples of cases where one can violate Shabbat for *piku'ach nefesh*. I am citing an abridged version of this list, just to help gauge the type of sickness that is relevant here. In addition to cases where the danger is apparent, such as suspected heart attack and stroke, he lists numerous other cases where there may be some risk, even if it is not immediately obvious in all the cases. These include significantly higher than usual temperature with no apparent cause (Rav Moshe Feinstein mentions 102° F),<sup>18</sup> internal wounds or hemorrhages, intense internal pain, punctured veins, arteries, or blood vessels, compound fractures, deep wounds, infected wounds which are swollen, ailing internal organs, heatstroke, serious bites from insects or other animals, poison, and loss of consciousness.<sup>19</sup>

There is an additional question regarding *piku'ach nefesh*, based on a more literal understanding of the phrase “saving of a soul.”<sup>20</sup> The *Shulchan Aruch* rules that one may violate Shabbat to save someone from being forcibly converted to another religion, even if the person’s life is not in physical danger, the rationale being that saving someone’s spiritual life (when it is being taken away by force) is equivalent to saving his physical life in this regard.<sup>21</sup>

Does the approach cited above regarding the importance of saving the life of a fellow Jew, even if it means suspending the normal rules of Shabbat, apply to saving the life of a gentile? The Gemara (Avoda Zara 26a) rules that a Jew may provide medical treatment to

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<sup>18</sup> *Iggerot Moshe*, OC 1:129.

<sup>19</sup> Pages 501–505.

<sup>20</sup> A strictly literal translation would be “extraction of a soul,” based to the Talmud’s case (Mishna Yoma 83a) of extracting a person trapped under rubble.

<sup>21</sup> Sec. 306:14 The *Beit Yosef* (306:14) brings the source of this ruling from Tosafot in Shabbat 4a and other places, where a few different explanations are given. Based on the underlying rationale of these reasons, the *Mishna Berura* (306:56–58) cites a few qualifications to this ruling. One is that the person was forcibly removed and did not come along willingly. A second is that the person is being removed permanently from Judaism, and not that the person is being forced to violate a sin on a one-time basis.

an idolater during the week (provided he is paid for his efforts) but not on Shabbat. The Gemara states that the gentile will understand that one may only violate Shabbat for the care of those who are required to observe it. This is also the ruling cited in the *Tur* and the *Shulchan Aruch*,<sup>22</sup> as well as the *Mishna Berura*.<sup>23</sup>

Many contemporary authorities have ruled that this principle is not applicable today, and I believe their views can be differentiated into two basic approaches.<sup>24</sup> The mainstream approach responds to the claim of the Gemara that gentiles will understand if Jews are unable to treat them on Shabbat, recognizing that Shabbat violation is only justified for the sake of those who are themselves Shabbat observers. Many authorities over the last few hundred years ruled that the understanding which the Gemara takes for granted cannot be assumed in modern society.<sup>25</sup> Rather, they claim, if Jews refuse to treat gentiles on Shabbat, this refusal could have disastrous ramifications, either for the doctor himself or for the Jewish community as a whole. As such, they rule that one should take whatever actions

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<sup>22</sup> YD 154:2.

<sup>23</sup> Sec. 330:8, and in the *Be'ur Halacha* (330:2, s.v. *kutit*). The *Mishna Berura* decries the doctors who neglect this halacha and violate the laws of Shabbat to save gentile lives, which he says has no basis. Notwithstanding the very strong language of the *Mishna Berura*, there does seem to be good basis in *poskim*, both before and after the *Mishna Berura*, for doctors who act in this way. See the next paragraphs for details.

<sup>24</sup> Clearly no *poskim* debate the validity of the reasoning of the above sources; the question is whether there is some change, either in the reaction of the gentiles to this perceived discrimination (as in the first approach), or in the status of the gentiles themselves (as in the second approach).

<sup>25</sup> The earliest source I found indicating this is *Responsa Chatam Sofer* (YD 131). Other sources include, but are not limited to, a *teshuva* by Rav Moshe Feinstein (*Iggerot Moshe*, OC 4:79), Rav Eliezer Waldenberg (*Tzitz Eli'ezer*, sec. 8, responsum 15, chap. 6, sec.12—it is a short paragraph from a very long *teshuva* on matters related to medical issues), and Rav Yitzchak Weiss (*Minchat Yitzchak* 1:53). A summary of this approach is found in the *Piskei Teshuvot* (330:2). (Note that there is a printer's error in the citation of the *teshuva* from *Iggerot Moshe*, as it says 49 instead of 79. This is corrected above.)

are necessary to save the life of a gentile, even if it requires violation of Shabbat laws. Within this approach, one should try to minimize the Shabbat violation required, and should only take those Shabbat-violating actions that are truly necessary. Nonetheless, advocates of this approach generally assume that any violation is justified on the grounds that the deleterious consequences of nontreatment could themselves endanger the lives of Jews, and are thus to be understood as *piku'ach nefesh* for Jews, which, as above, is permitted unconditionally.<sup>26</sup>

Alternatively, some authorities take a more principled approach to making this allowance in contemporary society, regardless of concern for the deleterious results of not saving gentile life. The mechanism for this approach is to limit the Gemara's ruling to gentiles of the type that were common in the society of Talmudic times, i.e. idolaters, claiming that it is not applicable to the gentiles in our society. One source cited as a basis for this view is the Ramban, who counts helping and saving a *ger toshav*, a gentile who has accepted the seven Noahide laws, including violating Shabbat to save his life, as a mitzvah.<sup>27</sup> If one takes the position of the Ramban (and Rav

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<sup>26</sup> The *Chatam Sofer* mentions this as a possibility—if the ill-will could result in danger, then Torah-prohibited *melachot* are permitted. The *Iggerot Moshe* mentions this as a general concern, even if the individual doctor is not worried about his particular case, he raises a possible uproar resulting from this type of behavior, either on the part of the citizenry or the government. The *Tzitz Eli'ezer* explains that the doctor should have in mind that he is acting to save himself and Jewry in general from deleterious consequences rather than to save the gentile patient. The *Minchat Yitzchak* raises the possibility, mentioned by some of the aforementioned *poskim* as well, that the external pressures to perform the action lower it from a *de-orayta* to a *de-rabbanan* based on the principle of *melacha she-einah tzericha le-gufah*, a *melacha* performed for ulterior or abnormal purposes. Once it has been reduced to a *de-rabbanan*, he can permit based on the general rule of *eiva*, ill-will. While this understanding of the principle is itself controversial, it exemplifies the recognition that there needs to be a permit for *melachot de-orayta*.

<sup>27</sup> “Omitted positive *mitzvot*,” listed in the Rambam's *Sefer Ha-Mitzvot* at the end of the *mitzvot asei*, mitzvah 16.



Ahron Soloveichik points out that there are others who take this view as well), the question then remains whether contemporary gentiles are defined as *gerei toshav*. Rav Nachum Rabinovitch, rosh yeshiva of the Hesder Yeshiva in Maaleh Adumim and author of *Melumedei Milchama*, a book of responsa related to army service and security matters, applies the aforementioned principle of the Ramban, and cites authorities who rule that the gentiles of today are generally defined as *gerei toshav*. As such, he rules that saving the life of a gentile is warranted on Shabbat.<sup>28</sup> My teacher and rosh yeshiva Rav Aharon Lichtenstein of Yeshivat Har Etzion explained to me that while the views that take the first approach address the practical issue, justifying saving the life of a gentile under certain conditions, they sidestep the fundamental issue. Rav Lichtenstein said that were he to be confronted with a case of violating Shabbat to save the life of a gentile, he would act to save the life of the gentile on principle, relying on those views that allow for it in principle, not based on societal concerns alone. Rav Lichtenstein also mentioned that his rebbe and father-in-law, Rav Yosef Dov Soloveitchik, ruled that this was permissible even in cases where there would be no problem of negative results, independent of such issues.<sup>29</sup> Along similar lines, Rav Ahron Soloveichik cites numerous sources regarding the status of *ben noach* and *ger toshav*, leading to the conclusion that saving the life of a gentile is warranted based on the notion that saving the life of a gentile mandates Shabbat violation on substantive grounds.<sup>30</sup>

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<sup>28</sup> Responsum 43, pp. 144–146. He states his opinion regarding an innocent Christian or Muslim (as opposed to a terrorist). He also claims that taking care of enemies in accordance with international regulations is also warranted to prevent ill-will toward Jews (along the lines of the first approach), a ruling for which he cites several sources.

<sup>29</sup> I heard Rav Lichtenstein express this idea in a *tish* in his home on Shabbat Parshat Lech-Lecha, 5762 (October 27, 2001). I followed up with him personally in the course of preparing this document, on 9 Tammuz 5763 (July 9, 2003).

<sup>30</sup> This idea is discussed in *Od Yisrael Yosef Beni Chai*, in the third article, titled “Be-inyan Mevakerin Cholei Akum mipenei Darkei Shalom,” on pp. 17–28. He

## PROHIBITION OF MEDICINE

As mentioned above, in situations where there is no threat to life, medical treatment on Shabbat is far more limited. The extreme example of this involves cases where all medicinal treatment is prohibited *per se*. The rabbis forbade healthy people with minor ailments from taking medicine on Shabbat. The reason for this prohibition was based on the fact that in Talmudic times, and until relatively recently, most medicines needed to be ground up, which is a violation of the *melacha* of *tochen*, grinding. In order to prevent the preparation of medicines, which would usually lead to the violation of this *melacha*, medicinal treatment was prohibited.<sup>31</sup> Most authorities rule that this prohibition still applies fully to medicines nowadays, even though it is not common for people to grind up medicines, and the medication being discussed for Shabbat is generally ready-made and available within the home.<sup>32</sup> (Purchasing the medication on Shabbat in cases where there is no danger is problematic for reasons pertaining to commerce.) There are some authorities who, while not writing off the decree altogether, are more lenient on certain aspects

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cites numerous sources that support his claim, as well as explaining those which do not seem to fit this model at first glance. The sources regarding *ger toshav* include, in addition to the Ramban cited above, Rashi (Arachin 29b), Rabbeinu Yona, *Sefer Yereim*, Ra'avad (*Hilchot Issurei Bi'a* 14:8), the *Ba'er Ha-Gola* (CM 266, 425), the *Aruch Ha-Shulchan* (YD 254:3), the Rema (OC 156) with the Gra, *ibid.*, and Rav Eliyahu Henkin (*Ha-Darom* 10, Elul 5719 [1959], pp. 5–9). The article, however, does not focus on the practical ruling. This information I heard from Rav Mosheh Lichtenstein, who told me in the name of the late Rabbi Dr. David Applebaum HYD, a very close student of Rav Soloveichik who was a practicing physician, that Rav Soloveichik told him that saving lives of gentiles is warranted even in the absence of the external concerns mentioned above. Thanks to Rav Mosheh Lichtenstein also for the reference to the article.

<sup>31</sup> Based on the Gemara Shabbat 53b, Rambam 21:20, *Tur* and *Shulchan Aruch* (328:1).

<sup>32</sup> Note the sources cited below, who deal with instances in which medicine is permitted and all maintain the assumption that there is a general problem. One example is Rav Moshe Feinstein's view (*Iggerot Moshe*, OC 3:53).

of medicinal treatment, taking into account the changes and differences in the preparation of medications from the way it was done in previous generations, not applying the decree to treatments that were not technically included in it originally.<sup>33</sup>

One example is that medication prescribed for an extended period to help recovery from illness can be taken on Shabbat even after one feels better.<sup>34</sup> Medication for a minor malady that is effective only if taken every day is a subject of debate. According to some authorities, including the Chazon Ish, one may continue taking the medicine on Shabbat.<sup>35</sup> According to other authorities, including

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<sup>33</sup> *Yalkut Yosef (Hilchot Shabbat*, pt. 4, pp. 135–139), a collection of halachot by Rav Yitzchak Yosef, son of Rav Ovadya Yosef (the book has his father's approbation, stating that he stands by its rulings), cites a combination of reasons to allow for medical treatment in many cases, each with sources to back it up. Particularly noteworthy for Ashkenazim drawn to this approach are the citations from Rav Shlomo Kluger (in *Sefer Ha-Chayim* 328:6 and in *Shenot Chayim*, pt. 1, 152:5, which should be 4 but it is labeled 5, as is the one after it) and Rav Avraham Chaim Naeh (in *Ketzot Ha-Shulchan, Badei Ha-Shulchan*, 134:7, pt. 2). Rav Kluger discusses whether medicines one began taking before Shabbat are excluded from the decree, for even in the time of the Gemara these would have been prepared in advance, and there would be no concern for grinding. He also distinguishes between medicines that are ground, to which the decree applies, and medicines that are boiled, to which the decree never applied (even though cooking is also prohibited on Shabbat). Rav Naeh does not rule conclusively in this direction, but says that it can be combined with other mitigating factors to allow for treating minor ailments. He refers to the prohibition as being a prohibition that is not as severe as it was, for the reasons mentioned. Thanks to Rav Doniel Schreiber for referring me to the *Yalkut Yosef*.

<sup>34</sup> Based on *Iggerot Moshe* (OC 3:53), *Shemirat Shabbat Ke-Hilchatah* (34:17); cited in *Piskei Teshuvot* 328:28 with no dispute and in *The 39 Melocho* (p. 485) as a matter of “general agreement.”

<sup>35</sup> *Shemirat Shabbat Ke-Hilchatah*, chap. 34 n. 76, as well as the *Piskei Teshuvot* (328, n. 100), cite the *Minchat Shabbat* (commentary on the *Kitzur Shulchan Aruch*) 91:9, who quotes the *Sefer Ha-Chayim* of Rav Shlomo Kluger, that all agree that if one started treatment before Shabbat, it can be continued on Shabbat, and that medicines which are not prepared by grinding can be taken under such circumstances. He also cites the *Chazon Ish*, quoted in the *Imrei Yosher* (Mo'ed

Rav Moshe Feinstein and Rav Shlomo Zalman Auerbach, one may do so only in situations where missing a dose of the medication will cause the person to fall ill, in accordance with the definition of a *choleh she-ein bo sakana*, who is allowed to take medicine, as will be explained below.<sup>36</sup>

Furthermore, only treatment that is defined as medicinal is prohibited. And not every treatment is halachically defined as medicinal. Below are several issues where there is discussion among the authorities as to whether or not the decree applies, and, accordingly, whether or not these treatments are permissible on Shabbat.

- *Foods that provide nutritional or medicinal value*: Any foods or drinks that are consumed by healthy people are permitted to be consumed, even if they have therapeutic value, even if the person taking them would not normally eat these foods, and even if the person is taking them specifically for their therapeutic value.<sup>37</sup>
- *Vitamins*: It is debated whether vitamins are considered medicine or food. Rav Moshe Feinstein rules that if the vitamins are taken for added strength and disease resistance, and not to strengthen a person who is otherwise weak (which would be prohibited as medical treatment), then taking them does not fall under the ban on medication.<sup>38</sup> Similarly, Rav Yosef Dov Soloveitchik is quoted as saying that taking vitamins is basically another form of ingest-

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99), as taking this position. *Shemirat Shabbat Ke-Hilchatah* also quotes the *Shenot Chayim* (also by Rav Shlomo Kluger) to this effect.

<sup>36</sup> Rav Feinstein in *Iggerot Moshe*, OC 3:54. Rav Auerbach is quoted in *Shemirat Shabbat Ke-Hilchatah*, chap. 34 n. 76.

<sup>37</sup> Based on a Mishna, Shabbat 109b (14:3 in Mishnayot), Rambam 21:22, *Tur* and *Shulchan Aruch* in 328:37.

<sup>38</sup> In the same responsum mentioned above. He explains that since the person is not ill, there is less cause for concern about getting “carried away” and grinding, and therefore cases where the person is totally healthy were not included in the ban. This is to be distinguished from minor ailments, which is precisely where the ban applies.

ing the nutrients from foods, and, as such, is permitted.<sup>39</sup> Others disagree and claim that this is a form of medicine being taken by healthy people, precisely the case regarding which the decree was issued, and is thus prohibited.<sup>40</sup> Rav Shlomo Zalman Auerbach distinguishes between different types of vitamins: those taken as a replacement for the nutritional content of particular foods are permitted as the foods themselves would be, while those taken to strengthen the person beyond the effects of regular foods are prohibited as medicines.<sup>41</sup>

- *Preventive medicine*: Along the lines of the preceding discussion, taking medication for a condition one anticipates coming about, such as antacids before eating food that one expects to give heartburn, is also permitted.<sup>42</sup> Similarly, one is allowed to take medicine to prevent suffering from seasonal allergies, where the medication is taken to prevent the onset of the symptoms.<sup>43</sup>

- *Nonmedicinal treatments*: This will depend on what type of “treatment” it is; spraying deodorant (stick deodorant is problematic for other reasons)<sup>44</sup> and applying talcum powder to absorb

<sup>39</sup> From a *shiur* by Rav Doniel Schreiber at Yeshivat Har Etzion, 5762 (YHE-CD project 5762, CD 1, *shiur* 15).

<sup>40</sup> *Berit Olam (Meleket Refu'a, 38)* and *Responsa Mishneh Halachot* (4:51), based on *Mishna Berura* (328:120). Note that Rav Moshe Feinstein, in the *teshuva* mentioned, provides an alternative explanation (limitation) for the basis of this approach, the quotation from the *Mishna Berura*.

<sup>41</sup> Quoted in *Shemirat Shabbat Ke-Hilchatah* (chap. 34, n. 85). All information in this paragraph, except where otherwise noted, is based on *Piskei Teshuvot* (328:30).

<sup>42</sup> *The 39 Melochos*, pp. 483–484, based on the previously cited *Iggerot Moshe*.

<sup>43</sup> From Rav Doniel Schreiber in the *shiur* mentioned in n. 39 above.

<sup>44</sup> *The 39 Melochos* lists “Using solid deodorant sticks” among examples of *memarei'ach*, a *tolada* (subsidiary) of the *melacha* of *memachek* (p. 917). The prohibited activity performed is the smoothing of a semisolid substance, since you spread it on yourself and you want it to stay there. He mentions that it is permissible to use roll-on deodorant, which works in a different manner. My thanks to Rav Yaakov Francus for his help in explaining this concept.

perspiration, applying ice to a bruise, and wearing a brace are all permitted.<sup>45</sup>

• *Brushing teeth on Shabbat*: This too is a matter of debate. I found four different positions, with some differences between them (see notes), among modern authorities. (1) Rav Moshe Feinstein, Rav Yitzchak Yaakov Weiss, Rav Eliezer Waldenberg, Rav Moshe Zweig, Rav Shlomo Zalman Auerbach, and Rav Neuwirth (*Shemirat Shabbat Ke-Hilchatah*) rule that brushing teeth with toothpaste is prohibited.<sup>46</sup> (2) Rav Avraham Chaim Naeh rules that using toothpaste (by hand) is permitted, but that using a toothbrush is prohibited.<sup>47</sup> (3) Rav Yechiel Yaakov Weinberg rules that

<sup>45</sup> Spray deodorant is permissible because it is considered hygienic treatment rather than medical, as explained in *The 39 Melochos*, p. 479, based on *Shulchan Aruch* (328:22) and common practice. Talcum powder is considered to absorb and not heal, as explained in *Shemirat Shabbat Ke-Hilchatah* (34:12). Ice treatment and braces are permissible as treatments never performed medicinally, as explained in *Chayei Adam (Hilchot Shabbat 69:5)* (the examples come from *The 39 Melochos*, p. 484; braces are also mentioned in *Shemirat Shabbat Ke-Hilchatah* 34:29–30).

<sup>46</sup> Rav Feinstein's ruling appears in *Iggerot Moshe*, OC 1:112. He rules that if one does not apply toothpaste or wet the brush before or after, then it is permitted to use a toothbrush. But I did not put this in the third category, which permits normal use of a toothbrush. This *teshuva* is quoted in *The 39 Melochos* on p. 919, as an example of *memarei'ach*, a *tolada* (subsidiary *melacha*) of *memachek* (as above in n. 44), and n. 55 there (p. 685). Rav Weiss's ruling appears in *Minchat Yitzchak* (3:48). Rav Waldenberg's ruling is in *Tzitz Eliezer* (pt. 7, 30:2). Rav Zweig, in *Ohel Moshe* (2:98), explains that there is a problem of medical treatment, since toothpaste is made under medical supervision, and people use it for dental health, as well as problems in using both toothpaste and a toothbrush per se, even separately. A letter (*teshuva*) of Rav Auerbach's is cited in the *Seridei Eish*, in response to Rav Weinberg's *teshuva* on this topic, explaining that brushing is something that could be permitted, but the custom is to prohibit; he mentions one technical problem (see below for the source). The source in *Shemirat Shabbat Ke-Hilchatah* is 14:34 (the sources on this topic, other than Rav Soloveitchik and Rav Auerbach, are quoted in fn. 95 there. Note the correction in the citation of the *Seridei Eish*).

<sup>47</sup> In the *Ketzot Ha-Shulchan* 138, in n. 31 of the *Badei Ha-Shulchan*, s.v. *mutar le'shafshaf*. He prohibits use of a toothbrush because of *uvdin de-chol*, that is, he

brushing teeth with a toothbrush and no toothpaste is permitted.<sup>48</sup> (4) Rav Hershel Schachter cites Rav Yosef Dov Soloveitchik as having ruled that brushing teeth normally is permitted.<sup>49</sup> Rav Ovadya Yosef, in four consecutive responsa, discusses numerous potential problems that can come up with regard to brushing teeth, and concludes that brushing teeth is permitted so long as you do not always bleed when you brush. And even if you sometimes bleed from the brushing, it is still permitted to brush with a toothbrush and toothpaste. Nonetheless, he recommends having a special toothbrush set aside for Shabbat, to avoid the problem of *uvdin de-chol*, engaging in an activity that is a markedly weekday activity. He also rules that one should not rinse off the brush after one's final use of it on Shabbat, comparable to not washing dishes that one will not need for the rest of Shabbat.<sup>50</sup>

• *Soap*: Regarding bar soap, there are a number of reasons cited for why it should be prohibited, with a general consensus that it is prohibited.<sup>51</sup> With regard to liquid soap there is some debate.

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considers it to be a markedly “weekday” (non-“*Shabbosdig*”) activity, not because of the more substantive issues cited above in the first position.

<sup>48</sup> Rav Weinberg in Responsa *Seridei Eish* 1:30.

<sup>49</sup> *Nefesh Ha-Rav*, p. 168.

<sup>50</sup> Responsa *Yabi'a Omer* (pt. 4, OC, 27–30). In no. 27 he deals with the aforementioned issues of *memachek* and *memarei' ach*. In no. 28 he deals with the issue of *nolad*, that a new substance is being created. In no. 29 he explains why there is no problem of medical treatment and the decree against grinding medicine does not apply. In no. 30 he deals with the issue of *sechita*, squeezing out material, with regard to the toothbrush. Thanks to Rav Shlomo Levi, rosh kollel at Yeshivat Har Etzion, for his help in understanding the ruling not to wash the brush. I noticed afterward that a similar explanation is provided in *Menuchat Ahava* (20:6), by Rav Moshe Levi of Bnei Brak, who also rules in accordance with Rav Ovadya Yosef.

<sup>51</sup> The Rema (326:10) rules that it is prohibited to wash one's hands with “*borit*, which is called *zayif* in Ashkenaz,” which is understood to be a reference to soap. The *Mishna Berura* (326:29–30) rules in accordance with the Rema and cites further reason to prohibit based on the *Tiferet Yisrael*, who felt that soap in his time was even more problematic than the soap of the Rema. Accordingly, Rav Avraham Chaim Naeh (*Ketzot Ha-Shulchan* 146, *Badei Ha-Shulchan* 32),

Rav Moshe Feinstein mentions that many people permit the use of liquid soap, but states that the reason for this leniency eludes him, and he rules that it, too, is prohibited. Nonetheless, other authorities, including the *Aruch Ha-Shulchan* and Rav Avraham Chaim Naeh, rule that use of liquid soap is permitted, and this is the ruling cited in *Shemirat Shabbat Ke-Hilchatah*, with the caveat that it is better to prepare the soap before Shabbat.<sup>52</sup> *The 39 Melochos* cites both views, and mentions that as a result of this dispute some people dilute the liquid soap to make it “especially thin,” to eliminate the potential problem.<sup>53</sup>

- *Removal of splinters or other foreign items that have entered one’s body*: This too is permitted, provided that the removal will not necessarily cause bleeding. (“Not necessarily” meaning that even if it is possible that bleeding will result, the action is permitted so long as one cannot be *sure* that there will be bleeding. This is because the resultant bleeding is unintentional, if not undesired, and so as long as bleeding does not necessarily result,

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*Shemirat Shabbat Ke-Hilchatah* (14:16) and *The 39 Melochos*, pp. 915–916, rule that using solid soap is prohibited. However, in their footnotes, each of them deals with the reasons cited for this prohibition and whether or not they should apply to our soap, which is apparently different from the soap that was first discussed by the *poskim* mentioned above. Each concludes that our soap is prohibited, in light of the custom not to use soap, and, more modern sources, such as Rav Moshe Feinstein (*Iggerot Moshe* OC 1:113), rule unequivocally that it is prohibited (Rav Feinstein wrote after Rav Naeh). Furthermore, *The 39 Melochos* points out (p. 916) that if the soap has become soft in a dish with an accumulation of water, the problems mentioned above may still apply. *Shemirat Shabbat Ke-Hilchatah* (n. 49) cites Rav Shlomo Zalman Auerbach that this may be considered something which could have been permitted, but the custom is to forbid, which is also binding under normal circumstances. However, in light of this, it seems that under extreme circumstances there may be room to permit use of soap in cases other than the exception cited by *The 39 Melochos*.

<sup>52</sup> The source in the *Aruch Ha-Shulchan* is 328:11 (end). The source in Rav Naeh’s book is the same as in the preceding note, at the end of sec. 32. The source in *Shemirat Shabbat Ke-Hilchatah* is also in the same section as above, with n. 50.

<sup>53</sup> Page 916.



it is permitted. This is called *davar she-eino mitkavein*, and the prohibited case is called a *pesik reisha*.<sup>54</sup>

### “SICK BUT NOT ENDANGERED”

Between the poles of life-saving treatment and the limits on treatment of the healthy lies the intermediate case and the rules of the non-endangered ill. The term in halacha for this middle group is *choleh she-ein bo sakana*, literally translated as a person who is sick but whose life is not in danger. In other words, halacha defines a category of sickness that, while not severe enough to be classified as involving danger to life, nonetheless does not fall into the category of healthy people discussed above. Before providing examples, it is worth defining the general principles of what can be done for or by such a person.

The decree against taking medicine applies only to healthy people with minor ailments and not to a *choleh she-ein bo sakana*. Furthermore, if the person needs some medical care that requires the violation of Torah-based laws of Shabbat, they can be performed for him by a gentile.<sup>55</sup> (The general prohibition against asking gentiles to violate Shabbat on your account is known in halacha as *amira le-akum* or *amira le-nochri*.)<sup>56</sup>

<sup>54</sup> Regarding splinters: the Mishna *Shabbat* 122b (17:2 in the Mishnayot) states that one may use a needle to remove a splinter, which is cited in Rambam 25:8, *Tur* and *Shulchan Aruch* in 308:11. Puncturing an abscess (swelling): the Gemara *Shabbat* 107a explains that if it is done only to release the liquid, with no intention of creating an “opening,” meaning as a professional medical treatment, then it is permissible. This is cited by the Rambam in 10:17 and the *Tur* and *Shulchan Aruch* in 328:28. (This is external in that it relieves pressure rather than heal a malady.)

<sup>55</sup> *Mishna Berura* (328:1) mentions that the decree of medicine does not apply, and the *Shulchan Aruch* (328:17) rules that Shabbat violations can be performed by asking a gentile.

<sup>56</sup> The rules governing *amira le-nochri* are beyond the scope of this article. For more on this, see *Shabbat* 121a and 150a, *Shulchan Aruch* OC 306–307, *Shemirat Shabbat Ke-Hilchatah* chaps. 30–31 and *The 39 Melochos*, pp. 63–89.

There is a major debate regarding exactly what a Jew can do in terms of violating other laws of Shabbat for such individuals. The *Shulchan Aruch* cites four views, and states that the preferred view is that in standard cases rabbinic violations immediately necessary for the treatment that cannot wait until after Shabbat are permitted if performed with a *shinui*, i.e., in an abnormal way that mitigates the severity of the violation. Similarly, it is permissible to move or utilize an item which is *muktzeh* if it is necessary to attain treatment.<sup>57</sup> There is one exception where this rule is relaxed according to the *Shulchan Aruch*, and it will be explained below in the listing of examples. Regarding the performance of Torah-prohibited *melachot* with a *shinui* (which is considered a more severe rabbinic prohibition), *Shemirat Shabbat Ke-Hilchatah* cites a group of authorities who are lenient in this matter, and cites Rav Shlomo Zalman Auerbach as stating that one can rely upon this view when a Torah-prohibited *melacha* is necessary to treat the individual, and there is no gentile available to perform it.<sup>58</sup>

What illnesses are defined as *choleh she-ein bo sakana*? The *Shulchan Aruch* lists many different illnesses and their treatments,<sup>59</sup> the principles of which will serve as the basis for modern application. For our purposes it is useful to deal with contemporary lists. *Shemirat Shabbat Ke-Hilchatah* lists numerous examples or criteria for *choleh she-ein bo sakana*, though he is careful to qualify it by pointing out that this category precludes any situation where there is a possible risk to the person's life.<sup>60</sup>

- *Lying down*: The “classic” case is a person who is so sick that he or she needs to lie down rather than move around freely.
- *Fever*: The second cases is someone suffering from a fever at a temperature with which people do not normally leave home

<sup>57</sup> *Shemirat Shabbat Ke-Hilchatah* 33:6 cites this law as well as sources for it.

<sup>58</sup> 33:2, n. 17\*.

<sup>59</sup> 328, especially secs. 20–36, 39–41.

<sup>60</sup> 33:1.

(*Shemirat Shabbat Ke-Hilchatah* cites a source which mentions 38° Celsius, which corresponds to 100.4° Fahrenheit, but points out that one should respond in each case in accordance with how sick the person is or seems, as opposed to one specific numerical cut-off point).<sup>61</sup>

- *Great pain*: The third example is pain that weakens the whole body, such as a migraine headache.

- *If the person feels healthy now*: A person who is currently healthy but may become ill if he or she does not receive medical treatment also falls into this category.

- *One of a person's limbs is at risk of losing its normal function, and doctors assess that there is no risk of the situation becoming worse if treatment is delayed until after Shabbat*: As alluded to above, the *Shulchan Aruch* rules that in this case, rabbinic prohibitions can be violated even without a *shinui*. However, for Torah-based *melachot*, the action should preferably be performed by a gentile. *Shemirat Shabbat Ke-Hilchatah* cites in the name of Rav Shlomo Zalman Auerbach that if it is difficult to find a gentile to help, one may perform the action with a *shinui*. In a footnote on his description of this case, *Shemirat Shabbat Ke-Hilchatah* cites Rav Eliezer Waldenberg, who wrote that he was told by doctors that nearly every case where a particular limb is at risk there is some risk for the entire body, and, as such, he considered such cases to be defined as *choleh she-yesh bo sakana*, with the result that the stringency mentioned above does not apply, and Torah-based *melachot* are to be violated by Jews, even in an ordinary way, on behalf of such a person.<sup>62</sup>

- *A woman who has given birth*: This encompasses the period starting from the eighth day postpartum (until then she is considered to be a *chola she-yesh ba sakana*) until the thirtieth day. These numbers apply in cases where the woman's status is nor-

<sup>61</sup> Note 2 in chap. 33, on the section cited above.

<sup>62</sup> Note 9, referring to *Responsa Tzitz Eliezer*, pt. 8, 15:10, sec. 9.

mal; obviously if she is in a weaker state than normal, the rules that apply to that level of sickness are in effect.

- *A young child who needs medical attention:* A child in need of medical help is generally considered to be a *choleh she-ein bo sakana*, and the restrictions mentioned above regarding healthy people do not apply.

In sum: if faced with an individual whose life may be in danger, one must take any and all action to help save the person, and while planning ahead is recommended in the relevant cases, considering approaches that minimize the violation is only permissible if it does not take extra time. Acting reasonably and appropriately, even at the cost of Shabbat violations, is not only permissible, it is a great mitzvah.

In cases where a person has fallen ill, but there is no reason to think that the person's life is in danger, medicines may be provided, and, if necessary, most actions that do not involve Torah-prohibited *melachot* may be undertaken, preferably with a *shinui*. If Torah-prohibited *melachot* are necessary, then the services of a gentile should be sought, and if there is a risk of losing a limb and the intervention is absolutely necessary, a Jew may perform a Torah-prohibited *melacha* with a *shinui*.

However, in cases where a person feels a little bit under the weather or has some slight discomfort, most authorities rule that medicinal treatment must be avoided altogether. Exceptions are cited for activities beneficial to one's health that are not defined as medical or medicinal. As noted above, there are some authorities who allow for more treatments even in these cases, with certain limits and parameters.