

ity, where the principle is established. Charity is obligatory only for those who can afford to share. When one's life is at stake, sharing is neither possible nor permitted.

**Iggeros Moshe, Orach Chaim IV:79
[17 Adar 5735 (March 16, 1976)]**

The Conduct of a Doctor on the Sabbath

[This responsum was written to a young medical school graduate who posed a number of important questions as to his conduct on the Sabbath.]

The Rambam, in Laws of Shabbos chapter 2, refers to the treatment of the critically ill on the Sabbath, using the term *dechuyah*, i.e., that the laws of saving life supplants the laws of Shabbos. The author of the *Shulchan Aruch*, in his *Kesef Mishnah* commentary to the Rambam, explains that the concept of *dechuyah*, as opposed to the concept of *hutrah*, means that the decision to save a life takes precedence over the commitment to observe the Sabbath.

The concept of *hutrah* is that on the Sabbath there are no laws that govern relationships to the critically ill. The law is not supplanted. It is not a value judgment of which law is more important; rather, the Sabbath laws were originally given for all people who were not critically ill. The difference in halachah is significant. When a law is supplanted, there is an obligation to avoid conflict if possible. If this were the case, then on the Sabbath, for example, if there were a non-Jewish physician, equally competent, the Jewish physician should defer to the non-Jewish physician. It is, therefore, strange that the Rambam's laws should be interpreted as *dechuyah* when, as we all know, there is a special mitzvah for a Jew to be involved in the saving of a fellow Jew's life. He is not to defer to a non-Jewish physician, lest people say that the Sabbath law is only reluctantly supplanted and he will not hasten to respond to an emergency call. Even if a non-Jewish physician is standing by, it is a special mitzvah for the Jew to

undertake to transgress the Sabbath law and do whatever is necessary to save the patient.

In my opinion, there is no difference between the concepts of *dechuyah* and *hutrah* with reference to medical care on the Sabbath except if the patient has not yet called a physician. [A second difference might be the need to perform the task *al yedei shinnui*, i.e., not in the usual manner, assuming that to do so will not introduce any delay. M. D. T.] That is, if the concept is really *dechuyah*, the physician is not obliged to make himself easily available so that people can find him in time of need. Therefore, it is quite proper to have an unlisted telephone number that can be given only to those who have a halachic right to contact the physician, such as a patient whose care is being managed by the observant physician and may require his advice or services on the Sabbath. This assumes that there are sufficient numbers of other physicians in the area who can be contacted by anybody who needs a physician.

If, however, he is the only physician in the area, then, of course, it is necessary for him to be available so that people in need can contact him. If he lives in an area where most of the inhabitants are non-Jewish, it surely is right and proper for him to choose the Sabbath as his day off. Physicians whose schedule calls for them to be off one day of the week do not hesitate to be unavailable during that day by traveling to some distant place. They generally do not respond to telephone calls but have a service refer the caller to the physician who is covering their practice for the day.

Now to focus directly on the question that was posed concerning the care of a non-Jewish patient on the Sabbath. There was, indeed, a time when the explanation in the Talmud [Avodah Zarah 26a] was fully acceptable. People who were devoted to their religion understood that different religions have different regulations as well as privileges for those who belong to the same faith community. Thus, a Jewish physician, as Abaye explains in the Talmud, could tell a non-Jew: "I may transgress the Sabbath only for those who are Sab-

bath observers." [This explanation] was fully acceptable to the non-Jew.

All must appreciate that an answer of this kind would now be totally unacceptable in every country known to us. Surely, neither the relatives of a patient nor governmental agencies nor hospital administrators would appreciate that response. Indeed, I suspect that a doctor who refused to treat a patient would have to face some legal, possibly criminal action. Therefore, it is important for a physician on the staff of a hospital to arrange his schedule so as not to be on duty on the Sabbath. Since in America Sunday is a day when most people like to be off, it should not be too difficult to change the on-duty schedule by agreeing to work on Sunday in return for others covering your duty assignment on the Sabbath.

By arranging matters so that you are never assigned any duties on the Sabbath, obviously others will be assigned in your place. There should be no concern that because of your arrangement other Jews will be forced to work on the Sabbath. It would most likely be a kindness to a Jewish physician who is not a Shomer Shabbos to be on duty in the hospital on the Sabbath, where many of his activities are covered under the mitzvah of *pikuach nefesh*, rather than to be at home or elsewhere, where he is committing transgressions of the Sabbath without any redeeming circumstance, such as providing medical care.

If a situation should arise in which you must be in the hospital, since you have been unable to rearrange your schedule and a non-Jewish patient is presented to you, surely you must treat the patient even if [doing so] involves transgression of Biblical prohibitions on the Sabbath.

Similarly, if there is an accident near your home and people rush in to call you, since you are the physician closest to the scene, even though the injured individual may not be Jewish, you are required to offer your full services in disregard of the transgressions of the Sabbath. There is no distinction between Jew and non-Jew.

The great sage, the Chofetz Chaim, in his *Mishnah Berurah* 338, criticizes doctors who are Sabbath observers for

traveling great distances in order to treat a non-Jew and often compounding their own prescriptions on the Sabbath, as was the custom in Russia. He concludes that they are Sabbath transgressors. This is surely not in consonance with the current social condition. The halachic principle of *eivah* [i.e., minimizing factors which cause enmity between people] is not based solely on the desire for good human relations within a community. There is a far greater concern that a breakdown in human relations will actually lead to the killing of Jews. Thus, not treating a non-Jew on the Sabbath may very well endanger the lives of other Jews. This is why I find it so difficult to understand the position of the Chofetz Chaim.

I can certify that in Russia, in small towns where there was only a single physician for an entire district, a Jewish physician who refused to travel to care for a non-Jew on the Sabbath, regardless of his defense that his religion did not allow it, would surely have endangered his life and the lives of other Jews. Even the police would have made no effort to protect him from the wrath of [the patient's] relatives, who would have claimed that his failure to treat their relative had caused his death.

It is obvious to me that the [author of the] *Mishnah Berurah* was aware of this problem, because he appended a footnote to explain that his position that the prohibition of a Jewish physician treating a non-Jew on the Sabbath applies "to the country of India, whose inhabitants are even today true idolaters."

Obviously, he also feared that in the West the Jew would be endangering his own life and the lives of other Jews if he failed to treat all patients on the Sabbath who needed his help, without regard to their religious affiliation. The Chasam Sofer, in his responsum on Yoreh De'ah 131, said this quite openly. If there is danger that enmity will result from failure to treat a non-Jew on the Sabbath, this involves danger to life. Therefore, it is permissible to transgress even the Sabbath Biblical laws in order to treat the non-Jew.

It is interesting to note that the author of *Divrei Chaim* (Orach Chaim II:25) explains that the concept of *eivah*, or enmity, that might result, is not adequate justification for transgressing Biblical commandments on the Sabbath. Nevertheless, he records the custom of religious physicians to transgress the Sabbath, even with reference to Biblical commandments, in order to treat non-Jews on the Sabbath, basing themselves on a special edict issued by the Council of the Four Lands (an organization of the greatest rabbinic scholars that held the sway from the mid-sixteenth century until 1764), which ruled that in light of the social impact of failure to treat all patients who needed a physician's help, it was required that physicians treat patients on the Sabbath, regardless of religious affiliation. It is difficult for me to understand why this edict was needed since it is quite obvious that the law is as I have stated it and as recorded by the Chasam Sofer. The edict must be understood, therefore, as recording the consensus of the opinion of the *poskim* of the time that even if the physician personally feels that it will not lead to the animosities that are our concern, the edict was issued to order him to disregard his personal evaluations and accept this as a *pesak din* of the *gedolim* of the generation.

It is interesting that the *Divrei Chaim* never expressed himself in opposition to the actions of these physicians, recording his own opinion and then stating the reason for the current practice of the physicians who take the more lenient approach. It should be obvious to everyone that whether [such a refusal] leads to enmity or not may vary in different places, and hence, the necessity for a general ruling so that the conduct of a physician in one part of Europe should not have a negative impact upon the Jewish population in other parts of Europe.

The personal opinion of the physician only has validity in his own town, but he is unaware of the far-reaching impact of his actions in refusing to treat a no-Jew on the Sabbath. I must reiterate that it is my considered opinion that in our day we have to worry about the impact on the Jewish community worldwide. If it should be reported that a Jewish physi-

cian refuses to treat a non-Jew on the Sabbath while he does treat his Jewish compatriots, true enmity will result to the great detriment of the Jewish inhabitants.

It has been reported, in the name of the Klausenberger Rebbe רבני, that physicians should not take any fee for treatment [rendered] on the Sabbath. This ruling is right and proper. Surely, it is forbidden to profit from any Sabbath transgression, and therefore in this case, his entire motivation should be the saving of a human life and the performance of that mitzvah.

Iggeros Moshe, Orach Chaim IV:81 **[2 Rosh Chodesh Adar 5739 (Feb. 28, 1979)]**

Use of Beepers by Medical Personnel on the Sabbath

[This responsum was written to clarify the workings of the Hatzolah organization in Brooklyn, New York, with specific reference to carrying a beeper on the Sabbath.]

The question posed to me concerns the wearing of a radio by members of the Hatzolah organization. If they could not wear the radio and be in contact with the central office while away from home, it would necessitate their staying in their apartments with a radio receiver turned on waiting for a call for their services. Not to be able to leave home on the Sabbath would be surely a great burden and would reduce the number of volunteers so necessary for the proper functioning of this organization.

The Talmudic discussion in tractate Shabbos [63a] makes it clear that an object can be classified as an article of clothing even though it does not serve the usual function of clothing, namely, to protect the body from the elements. The controversy recorded there concerns a soldier wearing his sword or carrying his bow, and involves the aesthetic evaluation of these items. If they are regarded as a sign of his status and importance as a defender of society, he may wear it on the Sabbath. If, however, it is a degrading symbol of his associa-