



Tamuz , 5772
July, 2012

Dear friend,

We take this opportunity to remind you of our upcoming 15th Annual Jerusalem Yarchei Kallah which will take place August 8-14, 2012.

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Vaccination in Halacha

Certain unsubstantiated claims have appeared in the media regarding the hazardous and possibly grave side effects to children associated with administering vaccinations.

This situation leads to an extended series of questions, some quite disturbing. Are parents obligated to be wary of these assumed harmful side effects? Are vaccinations required or only optional according to Halacha? Do schools or summer camps have the right or even the

obligation to require potential participants to be immunized or to expel them if later discovered not to be immunized? Should vaccines against potentially fatal diseases be seen in a different light from those whose effects are usually nuisances? Should HPV (Human Papilloma Virus, the cause of cervical cancer) be looked upon differently in that its transmission is dependent largely on halachically non-sanctioned behavior? Due to what is termed herd immunity (when most of a population has been vaccinated) the probability of contracting a contagious disease is slight. If so, are parents halachically obligated to vaccinate their children? Can a community obligate a parent to vaccinate his child? For if one person refuses then others may follow suit resulting in the community becoming susceptible to the disease. May physicians decline to treat children whose parents did not vaccinate them?

Finally we will investigate the question of whether or not a community can compel a minor who halachically has no da'at (independent intellectual capability) to conform to a communal obligation, e.g., vaccination, when he has no or only slight direct benefit from this. It can be cogently argued that since the child may gain some advantage by being vaccinated against contracting the disease from others, his compliance can be coerced.

The Obligation to Protect One's Health

Safeguarding one's health is subsumed under refuah (healing). Hashem says in Shmot (17:26): All the illness that I placed on Egypt, I will not place upon you for I am Hashem your healer." Hence we discover that protecting one's self from harm is also referred to as healing. Upon leaving the bathroom we say that the bodily processes of separating out hazardous waste from necessary life sustaining substances is indeed disease prevention. As the blessing itself says "Hashem heals all creatures" means that by disallowing sickness, Hashem heals us.

The Besomim Rosh (94) writes that one who protects his health is considered as being osek b'mitzvah (one currently being occupied with a mitzvah), hence is exempt from fulfilling another mitzvah whose fulfillment will be detrimental to his health (for example, eating matzah for one who suffers from siliac disease). Further the Chazon Ish (Kovetz Igrot, Vol.1, Chap. 138) writes, just as an individual is obligated to see a physician when ailing, he also has the mitzvah of bikur cholim towards himself. Consequently he is obligated to ensure his own physical wellbeing.¹

¹ "One is obligated to invest effort in remaining healthy just as he is obligated to invest effort in his friend's health. Hence one must make every effort to overcome one's natural inclinations and to obey physicians' therapeutic instructions. This is a noble commandment of visiting the sick".

The Rambam (Laws of Daot 4:1) writes: "... a healthy body is a component of the path of serving Hashem; for it is impossible to understand or gain knowledge of Hashem when sick. Therefore a person must distance himself from anything that may result in harm to one's body and also to accustomise himself to factors that will enhance his health... ." This is true even when no danger exists that the illness carries major medical complications.

However in a situation in which there may be a threat to life, the Gemara in Brachot (32b) relates a story: "It once occurred that a chassid was praying on the road and a gentile Minister passed by and greeted him. The chassid did not return his greeting. The Minister waited until the chassid completed his prayers and declared: 'Fool! It is written in your Torah (Deut. 4:9) Take heed and care diligently for your lives. Also it is written (ibid 4:15) you should be very careful with your lives. When I extended shalom to you, why didn't you return my greeting? If I would have decapitated you with my sword, would anyone censure me?' To this the chassid replied: 'If you were standing before a human king and a friend had come and greeted you, would you have responded? And consider if you had indeed responded in the king's presence, would he have punished you?' The Minister responded that he would have had me

beheaded. The chassid retorted 'If you would have acted so when standing before a human king who lives today and tomorrow is in the grave, how much more so in my case when I stood before the King of kings, G-d Almighty?' The Minister was immediately appeased and permitted the chassid to proceed home unharmed.”

The Rambam in Laws of Murder and Guarding One's Life (11:4) states: "Similarly, there is a positive commandment to remove all obstacles that are hazardous to life, as it is written (Deut. 4:9) 'Take heed and care diligently for your lives.' If one neglects to eliminate hazardous impediments, but instead leaves them, he transgresses the negative commandment of 'Do not retain (objects that result in the loss of) blood (i.e., death) in your home (Deut. 22:8).

Inoculations in Talmudic and Halachic Literature

In Yuma (83b) the Gemara shares an incident concerning one who was bitten by a rabid dog. Rabbi Mattya ben Charash suggests that he eat of the dog's liver as a cure. In opposition to this position, the Rabbis prohibited it for ingesting liver had not been shown to be therapeutic for rabies.²

² Rabbi Mattya ben Charash opines that even though the dog's liver is not kosher, nevertheless since it is occasionally ameliorative and the situation is one of pikuach nefesh, it is allowed. The Rabbis however require a demonstrated cure in order to compromise Torah prohibitions.

The Talmud Yerushalmi (8:5) recounts the story that when "Germani the servant of R' Yehuda the Prince was bitten by a rabid dog, he was given dog's liver to eat (in accordance with R' Mattya ben Charash). Unfortunately the cure was not successful (and he died). (Continues the Yerushalmi) if one ever tells you that he was bitten by a rabid dog and survived, you should not believe him.' The inquiry arises if the Yerushalmi asserts that no one was ever cured by consuming dog's liver, how could Rabi Mattya ben Charash prescribe this as a medication? Perforce we must agree that occasionally it is curative.

This author offers the following resolution to these two opposing views. The rabies virus has an incubation period before expressing itself; hence unfortunately the rabies vaccine is beneficial only during this period. Past this period, the vaccine is not therapeutic resulting in virtually a 100% fatality rate of those bitten. The liver as a cure (perhaps functioning as a vaccine) according to R' Mattya ben Charash, may only be beneficial during the incubation phase. After this time, the liver could not manifest curative properties and the person would die.

This is the meaning of the Yerushalmi: that a person bitten by a rabid dog with the rabies subsequently expressing itself is never cured.³ In respect of pikuach nefesh, there is no question whatsoever that if the liver has been shown to reliably cure rabies, then certainly it can be administered during the incubation period.

The Tiferet Yisroel in the Boaz to Yuma (8:3) discusses the permissibility of taking the risk (involving a fatality rate of 1/1000) of being vaccinated against smallpox versus actually contracting smallpox (30% of the population in his time died as a result of the disease). He permitted the vaccination.

In conclusion, certainly if there is an actual risk of children contracting a serious contagious disease, one would be obligated to vaccinate his own children.

To be continued ...

³ Not everyone bitten by a dog contracts rabies. Hence the Yerushalmi cannot be referring to a person just bitten, instead it refers to a situation in which the disease has heretofore expressed its symptoms.