



Work-Life Balance and the Torah-Observant Physician

"...and so shall you do for any lost article of your brother that may become lost from him and you find it; you cannot hide yourself."

Devarim 22:3

Practicing medicine, though famously described by *Chaza"l* as a "*Reshus*"¹ (voluntary activity), is in fact a fulfillment of an important Mitzva – "*v'Rapo Yerapei*". In cases involving *Pikuach Nefesh*, a doctor also fulfills the Mitzva of "*Lo Sa'amod Al Dam Rei'echa*" and according to the Gemara in *Sanhedrin (73a)* he also fulfills the Mitzva of *Hashavas Aveida* for "*returning a person's body*" – "*Hashavas Gufo*".

The Gemara explains that had the Mitzva of *Hatzalas Nefashos* been derived only from *Hashavas Aveida*, one would not be obligated to spend money in order to save a life, just as there is no obligation to incur costs in order to return another person's lost article. However, since the Torah also gave the command of *Lo Sa'amod Al Dam Rei'echa*, a person is obligated to save lives in all circumstances².

¹ In the famous adage "*Mikan Shenitna Reshus l'Rofei Lerapos*" (*Bava Kama 85a*)

² The Mitzva of *Hashavas Aveida* also has an accompanying *Lo Sa'asei* of "*Lo Suchal Lehisaleim*" – you shall not hide yourself. According to the *Maharsh" a* (*Sanhedrin 73*), this precept also applies to the Mitzva of *Hatzalas Nefashos*. Accordingly, Rav Shlomo Kluger *zt"l* gave an extraordinary ruling that those who are exempt from the *Issur* of *Lo Suchal Lehisaleim* in cases of *Hashavas Aveida*, are also exempt from the Mitzva of *Hatzalas Nefashos*! Therefore, an esteemed person, for whom it would sometimes be beneath his dignity to involve himself in returning a lost article, and is therefore exempt from doing so, is similarly exempt from providing life-saving support if doing so would compromise his dignity!

Many Poskim disagree with Rav Kluger. They maintain that medical care is always a dignified act and would never be beneath a person's dignity.

Rav Moshe Feinstein *zt"l* (*Igros Moshe Y.D. 2:174*) also strongly contested the ruling of Rav Kluger, labeling it as "thoroughly mistaken". If the honor of Heaven is disregarded where lives are at stake (as even the gravest of Torah laws are set aside in cases of *Pikuach Nefesh*), certainly the honor of a human being should be set aside even though he may be a great and righteous person.



The Poskim discuss various other distinctions between the obligation of *Hatzalas Nefashos* that is derived from *Hashavas Aveida*, and that which is based on the Pasuk of *Lo Sa'amod Al Dam Rei'echa*. One example is the question of saving the life of a person who attempts suicide. The *Minchas Chinuch* (237, *Kometz l'Mincha*) contends that the obligation of *Hashavas Gufo* would not apply to a suicide attempt, just as we are not obligated to return a lost article to a person who willfully tried to lose it³. However, the obligation of *Lo Sa'amod Al Dam Rei'echa* would certainly apply, as a Jewish life is in danger.

The Poskim also contend (see *Kovetz Teshuvos* (Rav Elyashiv zt"l) 1:124) that another important distinction is that *Lo Sa'amod* only applies where there is actual danger to life⁴ whereas *Hashavas Gufo* applies to any case where a person's body "suffers a loss" (i.e. experiences sickness or ill health). Just as there is a Mitzva of *Hashavas Aveida* when somebody has suffered lost any amount of his money or possessions (and not only when he has suffered a total loss), there is a Mitzva of *Hashavas Gufo* when he experiences any sort of medical issue, and not just when his life is at risk. It follows that the majority of a doctor's daily work is the fulfillment of the Mitzva of *Hashavas Gufo*.

What about cosmetic surgery? Does a plastic surgeon who performs elective aesthetic procedures fulfill the Mitzva of *Hashavas Gufo*? It seems that he probably does not. *Hashavas Gufo*, just like *Hashavas Aveida*, is only applicable to a case where there is an actual "Aveida" – something that is lost. Therefore, it is only when a patient is suffering from ill health or some type of medical issue that it can be said that there is a form of *Aveida* and treatment would be considered *Hashavas Gufo*. Plastic surgery that is performed solely for cosmetic reasons (e.g. to improve a person's social standing or popularity) and not for medical or psychological reasons cannot be considered *Hashavas Aveida*, although it may be *Gemilas Chasadim*.

There are important Halachic ramifications that hinge on whether a doctor is fulfilling a Mitzva when treating patients. If he is performing a Mitzva, then he is exempt from attending to other Mitzvos at that time because of the rule of "*haOsek b'Mitzva, Patur Min haMitzva*". Therefore, a surgeon who is in the midst of

³ Many *Poskim* disagree with this assertion of the *Minchas Chinuch*. Their foremost argument is that unlike a lost article, a person does not have true "ownership" over his own body. The comparison to a case of a person who willfully loses his possessions, is therefore flawed. See *Igros Moshe O.C. 127, Y.D. 2:174:3 and 3:90*.

⁴ This is borne out by the examples that are given by the Gemara in Sanhedrin (*ibid.*) of seeing one's fellow drowning or being attacked by a wild animal.



performing plastic surgery might not be exempt from other Mitzvos that crop up at that time.

We should mention that doctors are considered to be "*Osek b'Mitzva*" even though they are remunerated for their services. This is because any act that is considered to be an inherent "*Ma'aseh Mitzva*", such as *Refua*, is always considered a *Mitzva* regardless of one's motives (*Biur Halacha* 38)⁵.

The Mitzva of *Hashavas Gufo* and its ramifications is an extensive topic, and beyond the scope of this essay. In the following paragraphs we will focus on one common question facing medical practitioners, namely, "*what are a doctor's obligations during his free time or his times of respite?*" May he limit the time that he attends to the public in order to rest – or must he be available at all times to provide medical care or treatment?

If a doctor lives in a community in which there are no clinics open on Shabbos, must he tolerate constant knocking on his door by neighbors during his Shabbos meals when they come to ask him about their various ailments? Need he interrupt his Seudas Shabbos to examine or treat them?

If he has taken a vacation and receives notification of a patient's test results, need he review them and offer his recommendations right away or may he put it off for a few days (if the situation is not critical) until he returns from vacation?

Rest is exceedingly important for medical practitioners. If they feel rested they are able to provide adequate and quality medical care; if not, their work (and patients) can suffer. This alone thoroughly justifies the demarcation of strict hours of rest, even when they are not exempt from providing treatment on the grounds of being *Osek b'Mitzvah*⁶.

⁵ However, other occupations such as selling Tefilin, are not inherently Mitzva activities – it depends on one's motives. If the motivation is to make money, then one is not considered to be *Osek b'Mitzva*, but if it is to provide the public with the opportunity to perform the Mitzva of Tefilin, then one would have the *Din* of *Osek b'Mitzva*.

⁶ In fact, the rest hours of a doctor may well be considered a "*Hechsher Mitzva*" – a preparation for a Mitzva, as they allow him to perform the Mitzva of *Refua* properly during his work hours. An intern or resident who works twenty-four hour shifts and has only very limited time to rest before his next shift begins could possibly be exempt from Tefila at that time because he is being *Osek B'(Hechsher) Mitzva*, even if he will not be attending to cases of *Pikuach Nefesh*.



Another justification for rest hours is the notion that there is a limit to the Torah's expectations of a person's efforts to perform Mitzvos. For example, there is no obligation for a person to spend more than a fifth of his earnings to perform a Mitzva (see *Shulchan Aruch, Y.D. 157*). Therefore, it could be said, that there is also a limit to the amount of time that a doctor must commit to fulfilling the Mitzva of *Hashavas Gufo*⁷.

Moreover, since the Mitzva of *Hashavas Gufo* is an extension of *Hashavas Aveida*, it is logical that one needn't go to greater lengths to fulfill it than one would to return a lost article. Regarding *Hashavas Aveida* the Gemara is clear that one is not obligated to spend any money or make an inordinate effort to fulfill the Mitzva – the Mitzva does not obligate a person to expend his own resources in order to restore his friend's possessions. The same is true of *Hashavas Gufo* – a doctor is not expected to sacrifice all of his private life and downtime in order to fulfill the Mitzva.

Of course, these conclusions should not override common sense. If, during his Shabbos meal, a patient is brought to a doctor and they need urgent attention (not *Pikuach Nefesh*), if there is no other doctor or medical practice in the area, he should certainly help him, particularly where it will be easy for him to do so. Likewise, if the knocks on his door are infrequent, the doctor should tolerate the temporary interruptions and provide the necessary medical care.

However, if his life is significantly affected by the demands of the public and he is hardly able to rest, it is justifiable to take a break from seeing patients in order to return to work thereafter with a clear and focused mind.

⁷ Obviously, this is not true in cases of *Pikuach Nefesh*. Where a person's life is in danger one is obligated to make the most extreme efforts to save them, perhaps even to the extent of slightly endangering one's own life (see *Shulchan Aruch, Y.D. 157*).