



Medical Professionals, Patients, and Rosh Hashana

This week, with the Yom Tov of Rosh Hashana approaching, we will discuss a number of common Halachic questions that are relevant to medical professionals and patients regarding Musaf and Tekias Shofar.

I. Musaf

Very often, sick people are unable to attend a Minyan and need to Daven *b'Yechidus* (alone). This can also be a challenge for doctors or nurses whose shifts begin in the early morning and only end during the afternoon, making it difficult to Daven with a Minyan. Some are able to arise early and Daven Shacharis with a *Vasikin Minyan*, but on days such as Rosh Hashana this is impractical, as the Tefilos are lengthy and extend well into the morning.

Those who need to Daven *b'Yechidus* on Rosh Hashana in the early hours of the morning may have an Halachic issue regarding the Tefila of *Musaf*. The Gemara in *Avodah Zarah* (4b) says that “*a person shall not say the Tefila of Musaf of Rosh Hashana in the first three hours¹ of the day because (that time of the day) is appointed for judgment (during the first three hours of the day, Hashem sits and judges the world). Perhaps they will examine his conduct (the person who is Davening b'Yechidus) and will push him away.*”

Why does a *Tzibur* Davening *Musaf* during the first three hours of the day not have to be concerned that those are hours of judgment? The Gemara explains that the *Tzibur* as a whole has numerous merits and therefore can withstand the piercing glare of Hashem's judgment.

The Gemara then asks why there is only a concern regarding *Musaf* and not *Shacharis* and answers that during that time of the morning there is likely to also be a *Tzibur* Davening *Shacharis*. The merits of the *Tzibur* will protect even individuals who are Davening at the same time².

¹ Throughout this essay, “hours” refers to *Sha'os Zemaniyos* that are calculated based on the interval between sunrise and sunset and will vary depending upon location and date.

² The *Mishna Berura* (591) adds that if the *Tzibur* Davens *Shacharis* during the first *two* hours of the morning, an individual cannot join them should try to Daven at the same time so that he may be protected by their merit.

The *Rishonim* explain that the main concern regarding Davening *Musaf* in the first three hours of the day³ is that it is a time of Hashem's judgment, particularly on Rosh Hashana which is the *Yom ha'Din*⁴. Moreover, the Tefila of *Musaf* of Rosh Hashana contains *Malchiyos*, *Zichronos* and *Shofros* and each individual's judgment comes to the fore when he recites those sections. He therefore should take particular care to avoid reciting them *b'Yechidus* at that time⁵. This Halacha is cited by the *Shulchan Aruch* (591:8).

Another important Halacha regarding the Tefila of *Mussaf* is that it *should not be delayed past the first seven hours of the day*. The *Shulchan Aruch* (O.C. 286:1) relates that while a person who Davens *Musaf* after this time has fulfilled his obligation, he is nevertheless deemed a "*Poshea*" (a sinner).

To illustrate, this year, *Netz haChamah* on Rosh Hashana will be at approximately 6:30 a.m. in Eretz Yisrael. Three hours later, most doctors will be in the middle of their shifts and will not leave before seven hours have passed. This leaves them in a difficult position, as they seemingly cannot Daven *Musaf* before their shift (during the first three hours of the day) and shouldn't wait until after their shift as they will have delayed the Tefila until after the seventh hour. What is their best course of action?

We asked this question of *haGaon* Rav Asher Weiss *Shlit"a* and he ruled that it would be preferable to Daven *Musaf* before the shift, even though it will be during the first three hours of the day. This is because the Halacha of avoiding Davening *Musaf* alone during the first three hours of the day is only a *Din l'Chatchilah* (and can therefore be set aside *b'Sha'as haD'chak*) whereas the Halacha of not delaying it until after seven hours is "*mei'Ikar haDin*" – the basic Halacha (even though one does fulfill his obligation if he delays it past that time).

³ The *Magen Avraham* (591) points out that according to *Tosfos*, the reason one should not Daven *Musaf* at this time is because during the third hour of the day *the kings of the nations of the world arise from their beds and bow down to the sun*. This creates a "*Charon Af*" (anger) in the world and it is therefore not an opportune time to Daven. This would only be a concern during the third hour and not during the first two hours of the day. However, according to the other *Rishonim* (whose position is followed by the *Shulchan Aruch* and *Mishna Berura*) that the reason for this Halacha is that it is a time of *Din*, one should avoid Davening during all of the first three hours.

⁴ The *Mishna Berura* (591:8) explains that while Hashem judges the world on every day, He only does so as a "*Pekida b'Alma*" – a mere glancing look at the world – and only for that particular day. On Rosh Hashana, He judges the world and decides what its fate will be for the entire year or perhaps for several years.

⁵ The *Ra'avad* (s.v. *u'Mafkid*) explains that the judgment of Rosh Hashana is particularly grave as each person is judged as to whether he will live or die (as explained by the Gemara in Rosh Hashana 16). He therefore needs to entreat Hashem at length to merit positive outcome. An individual should, therefore, not Daven *Musaf* alone so that the Heavenly court not inspect his acts individually. However, on other days of the year, that are not *specific* days of judgment, a person may Daven *Musaf* alone during the first three hours.

In fact, it is said in the name one of the *Gedolei haPoskim* that a doctor who will be occupied in fulfilling a Mitzva (of *Refua*) during his shift on Rosh Hashana will have sufficient merit to survive the judgment, even if he Davens during the first three hours of the day.

Rav Asher also mentioned that according the *Maharam Banet* (*Brachos* 18a) the notion that “*Hashem does not despise the prayers of the many*” also applies when two people join together to Daven. While this is a tremendous *Chidush*, it is worthwhile for a doctor or patient to identify another person to Daven alongside him.

II. Tekias Shofar

Another important Halacha that may be relevant to medical staff and patients alike is the prohibition to eat before fulfilling the *Mitzva min haTorah* of *Tekias Shofar*. From daybreak of Rosh Hashana it is forbidden to eat until the Mitzva of *Tekias Shofar* has been fulfilled (*Tosefta, Shabbos* 1:7) as the *Chachamim* were concerned that if a person would begin to eat, he might extend his meal and ultimately forget to perform the Mitzva. This Halacha is cited by the *Shulchan Aruch* (*O.C.* 652:2) regarding the Mitzva of *Netilas Lulav*, but the *Mishna Berura* (*ad. loc.* 8) clearly extends it to all *Mitzvos min haTorah*.

The *Magen Avraham* (*ad. loc.* 4) infers from the *Shulchan Aruch* that only “*Achila*” – a true “act of eating” – is forbidden, but “*Te’ima*” – a small taste of something (such as fruits, vegetables or a small amount of *Mezonos* products – see *Shulchan Aruch, O.C.* 232) – is permitted. *Mateh Efrayim* (588:1) therefore advises that somebody who is feeling weak and will be unable to focus on the *Tekios* or the *Tefilos* until he has eaten, should make *Kiddush*, eat a small amount of cake (so that the *Kiddush* will be “*b’Makom Seuda*”) and drink some tea or coffee. He does, however, say that he should do so in private so that others do not see him and act more leniently.

In many cases, doctors or patients are unable to reach a Shul in time for *Tekias Shofar*. If possible, they should arrange for somebody to blow the Shofar in the hospital ward, sounding at least the minimum *Shiur* of thirty blasts⁶ in order to fulfill the *Mitzva Min haTorah*. That person may do so even if he has already fulfilled the Mitzva on that day and may also recite the Bracha on the Mitzva⁷.

⁶ The thirty are three sets of “*Tashrat*” (*Tekia, Shevarim, Terua, Tekia*), three sets of “*Tashaf*” (*Tekia, Shevarim, Tekia*) and three sets of “*Tarat*” (*Tekia, Terua, Tekia*). He needn’t sound the full 100 blasts (or 101 according to the Sefardic *Minhag*) that are sounded in Shul, though there are some who do so.

⁷ This is because of the rule of “*Arvus*” – common responsibility. Each Jew is responsible to ensure that all of his fellow Jews are also able to fulfill Mitzvos. Therefore, a person may recite a Bracha when enabling another Jew to perform a Mitzva, even if he has already fulfilled that Mitzva himself.

If it isn't possible to make this arrangement, and they plan on hearing the *Tekios* later in the afternoon, they have a number of options as far as eating is concerned:

If they are able to arise early and begin to eat before half an hour before *Alos haShachar* (daybreak - which is at approximately 5:20 a.m. in Eretz Yisrael this year), that would be the most preferred course of action. *Al Pi Kabala*, however, it is better not to eat at all before *Tekias Shofar*.

If they are unable to do so (or if eating at that time will not give them enough energy later in the day), they should appoint a *Shomer*, whose job it is to remind them to hear the *Tekios*. Then, when they finish Davening, they may make Kiddush and eat a small amount (less than 50 grams) of *Mezonos* products.

All of the above applies to men whose have a Torah obligation to hear the Shofar. Women are exempt from this Mitzva as it is a *Mitzvas Asei shehaZman Grama* (*Shulchan Aruch, Orach Chayim 589*). However, the Poskim relate that the women accepted upon themselves to observe the Mitzva of *Tekias Shofar* and that doing so was considered to be a *Neder* (vow) to perform a Mitzva. For this reason, the *Kaf ha'Chaim* (589:34) rules that if a woman knows that in a given year she will not be able to fulfill the Mitzva, she should undergo *Hataras Nedarim* to release her of the vow.

Some Poskim maintain that since the women undertook to perform this Mitzva, they also may not eat before fulfilling the Mitzva. But what would be the Halacha *b'Sha'as haD'chak*, such as the circumstances described above of a (female) doctor or patient⁸ who are unable to hear the Shofar until late in the afternoon? Would we say that there is more reason to be lenient and allow them to eat, as a woman's obligation is only based on a voluntary acceptance of the Mitzva unlike a man's whose is a Torah obligation?

The *Eshel Avraham* (592) rules that women should also endeavor never to eat before *Tekias Shofar*. Women who are unable to wait until after the *Tekios* have been completed in Shul should attempt to hear the Shofar earlier in the day before they eat.

However, the *Chayei Adam* (141:7) holds that since a woman is essentially exempt from the Mitzva of *Tekias Shofar*, she may eat before the *Tekios*. Although women have accepted upon themselves to fulfill the Mitzva, they probably did not do so in cases where it would cause distress. This is also the conclusion of the *Kitzur Shulchan Aruch* (129:19) and should be considered *Halacha l'Ma'aseh*.

⁸ Obviously, if the patient is unable to wait until the afternoon to eat because of medical reasons, then she may certainly eat. The obligation upon women is certainly not so binding as to oblige a *Choleh She'ein Bo Sakanah* to exert herself for it.