



What Can You Do?

Although it is certainly permitted to perform any act that is needed to save a life on Shabbos, not every action related to a *Choleh sheYesh Bo Sakana* supersedes Shabbos. Determining the line between permitted and forbidden acts for the sake of *Pikuach Nefesh* is a broad *Machlokes haPoskim*, detailed briefly in the paragraphs below.

The discussion begins with the following ruling of the *Rambam* (*Hilchos Shabbos* 2:14):

One may make a fire for a woman after she has given birth (a "Chaya"), even during the summer, because cold is greatly harmful to parturients in cold climates. But one may not make a fire to warm a Choleh.

The *Ra'avad* questions the ruling:

In Perek Yom haKipurim (Yoma 84) it is stated explicitly that, "We may heat water for a Choleh on Shabbos, either to give him to drink or to strengthen him." Perhaps that refers to a Choleh sheYesh Bo Sakana.

To which sort of *Yoledes* does the *Rambam* refer? During the first week after birth, a *Yoledes* is considered a *Choleh sheYesh Bo Sakana*; catering to her needs is a matter of *Pikuach Nefesh*. If the *Rambam* refers to a *Yoledes* during this period, it seems logical that the *Choleh* is also to a *Choleh sheYesh Bo Sakana*. If so, why does he forbid making a fire for him? What difference is there between him and a *Yoledes*?

Perhaps, the *Rambam* is referring to a *Yoledes* who is more than a week after birth (but before thirty days have passed) who is considered a *Choleh sheEin Bo Sakana*. If so, the *Choleh* to which he refers should similarly be a *Choleh sheEin Bo Sakana* for whom Shabbos may not be desecrated. However, this raises the question of why Shabbos may be desecrated for the *Yoledes* since her life is not in danger.

The *Rambam's* ruling is based on the following *Gemara* (*Shabbos* 129a):

R' Yehuda said in the name of Shmuel: One may make a fire for a Chaya on Shabbos (during the rainy season). They believed that this implied that it is permitted for a Chaya but not for a Choleh, and that it is permitted [only] during the rainy season but not during the sunny season. (But this is not the case: there it makes no difference whether it is a birthing woman or a Choleh, [and] it makes no difference if it is during the rainy or sunny season.) It was said: R' Chiya bar Avin said in the name of Shmuel: If he let blood and became cold, one may make a fire for him, even during Tekufas Tamuz (the height of the summer).

The sentence in parentheses above was not in the text of the Gemara of some of the *Rishonim*. In their version of the text, the flow of the Gemara is:

1. An initial suggestion ("*Hava Amina*") that Shmuel only allowed lighting a fire for a *Yoledes* and not for a *Choleh*, and only during the rainy season.
2. A conclusion (the "*Maskana*") clarifying that Shmuel did not hold that way. In fact, he permits even somebody who has let blood to light a fire on Shabbos.

There are two ways to understand the *Maskana*:

1. Shmuel would still not permit every *Choleh sheYesh Bo Sakana* to light a fire on Shabbos. Only a *Choleh* whose physical state is compromised to a similar degree as a person who let blood, such as a *Yoledes* (who loses blood during birth), may do so. However, unlike in the *Hava Amina*, according to the *Maskana* it is even permissible during the sunny season.
2. Shmuel permits every *Choleh* to light a fire on Shabbos, even during the sunny season. A *Choleh sheYesh Bo Sakana* is no worse than a person who lets blood.

Many *Rishonim*, including *Rashi*, the *Rif*, and *Ramban*, took the second approach, while the *Rambam* appears to take the first approach. This is evident from his ruling quoted above: Lighting a fire is only permissible for a *Yoledes*, not every *Choleh*, even if his life is in danger. The *Magid Mishna* initially assumes that this is because the *Rambam* holds like the first approach.

However, the *Magid Mishna* then quotes the *Ra'avad's* question from the Gemara in *Yoma* which explicitly states that one may heat water for a *Choleh* on Shabbos. Presumably, the same is true of lighting a fire. For this reason, the *Ra'avad* explained that the *Rambam* is referring to a *Choleh sheEin Bo Sakana*, for whom Shabbos cannot be desecrated. For a *Yoledes*, however, even more than a week after birth, Shabbos may be desecrated. The *Magid Mishna* explains that the *Ra'avad* must hold that a *Yoledes* remains in danger regarding heating, even more than a week after birth, unlike her other needs, which are not considered a matter of *Pikuach Nefesh* for her at that stage.

The *Magid Mishna* offers an alternative explanation. Even though the *Rambam* is referring to a *Choleh sheYesh Bo Sakana* and to a *Yoledes* within a week after birth, there is nevertheless a difference between them in Halacha. A *Yoledes* is subject to particular danger from cold, so it is permissible to light a fire for her, but all other *Cholim sheYesh Bahem Sakana* do not have the same danger from cold and can protect themselves with extra layers of clothing and blankets. (As for the Gemara in *Yoma* which permits heating water for a *Choleh sheYesh Bo Sakana*, we must differentiate

between heating water – that cannot be done without fire – and warming a person who is cold, which can be accomplished by wearing layers.)

However, although the *Magid Mishna* does offer an alternative explanation to the *Ra'avad*, he ultimately accepts the *Ra'avad's* approach:

But I nullify my judgment in the face of his, for if he (the Choleh) is in Sakana, it is implied that we desecrate [Shabbos] for all of his needs, even if refraining from providing them will not cause a Sakana.

In other words, if we can warm up a *Choleh* either with extra layers or by desecrating Shabbos to switch on the heating, we may desecrate Shabbos to switch on the heating. This is still considered one of the “needs of a *Choleh*”, though the goal of warming up the *Choleh* could have been achieved without it.

This ruling is the source of a broad discussion among the Poskim regarding a range of acts that are part of a patient's treatment but there would be no *Sakana* if they were not provided. Which are included in the *Magid Mishna's* ruling?

The reason for the great debate is that the basis for the ruling is unclear: why may we desecrate Shabbos if failing to do so will not lead to *Sakana*?

One could argue that the ruling is based on the following principle: In a *Pikuach Nefesh* scenario, when there are two possible ways to save a life, one being the normal approach that requires *Chillul Shabbos*, and the other an alternative remedy that does not, it is permissible to desecrate Shabbos to perform the normal therapy. We are not obligated to pursue the alternative therapy if it is not something that we would have done on a weekday, since it is ultimately a matter of *Pikuach Nefesh*.

The same might apply in our scenario. Since the cold endangers the *Choleh*, *Chillul Shabbos* is warranted. During the week one would certainly heat the room rather than wrap him in numerous layers, therefore, one may do so on Shabbos as well.

If this is the *Magid Mishna's* intent, we cannot extrapolate to actions that would not endanger the *Choleh* if they are not performed. For example, if not administering a certain medication would not lead to *Sakana*, it would appear that one may not desecrate Shabbos to administer it. The medication, quite simply, has nothing to do with *Pikuach Nefesh*. The *Magid Mishna* only refers to actions that would endanger the *Choleh* if they are not performed, in which case *Chillul Shabbos* is permitted even if there is another method to prevent the *Sakana* that does not desecrate Shabbos.

However, the *Magid Mishna's* concluding words are explicit and he clearly lays out a broad concept: One may perform any regular actions to treat or assist a *Choleh sheYesh Bo Sakana* on Shabbos, even if their omission would pose no *Sakana* at all.

What is the logic behind this concept? Why should *Chillul Shabbos* be permitted in these circumstances? The Poskim offer several explanations:

Some say that the *Magid Mishna's* wording implies that with regard to *Pikuach Nefesh*, Shabbos is "*Hutra*" – completely waived as though it were a weekday. It is not merely "*Dechuya*" – overridden, which would obligate us to limit the *Chillul Shabbos* as much as possible. Therefore, all regular acts of treatment may be performed for a *Choleh sheYesh Bo Sakana*.

The *Avnei Nezer* has a different approach (which is considered by *haGaon* Rav Asher Weiss *Shlit"a* to be the primary approach). With regard to a *Choleh sheYesh Bo Sakana*, we can never be certain as to which acts have a beneficial or harmful effect on his health. Presumably, a hot drink or certain medications are not so vital to the *Choleh* such that without them there would be a risk to his life, however, in practice, it is impossible to know that with total confidence. For this reason, the *Magid Mishna* holds that one should be stringent and perform all actions without hesitation.

Rav Asher added that the *Magid Mishna's* concept is similar to the principle of "*Yesuvei Da'ata*" that we find in the case of a *Yoledes*. One may perform all types of acts for a *Yoledes* even if they have no therapeutic benefit, simply to calm her and assure her that she is receiving proper care. For example, one may light a candle for her, even if she is blind and cannot benefit from it, because it helps assure her that her caretakers will be able to treat her appropriately. According to the *Rashba*, this applies to any *Choleh*, not only a *Yoledes*.

Perhaps was the *Magid Mishna's* intent. We attend to all the needs of a *Choleh* to calm him and assure him that he is being treated well and nothing is being withheld from him.

A further approach to explain the *Magid Mishna* is related in the name of the Brisker Rav *zt"l*. He contends that although by not performing these acts the *Choleh's* life will not be endangered, they nevertheless do help his recovery. (For example, a period of convalescence that would have taken a week may take only five days.) According to the *Magid Mishna*, acts of this sort are also considered a matter of *Pikuach Nefesh* because the patient must heal as quickly as possible since the health of *Cholim sheYesh Bahem Sakana* is precarious and can deteriorate suddenly and rapidly.

The Poskim disagree as to whether Halacha follows the *Magid Mishna*. Though the Shulchan Aruch (328) rules like the *Magid Mishna*, the *Biur Halacha* disputes the ruling at length, listing many *Rishonim* who disagree. He concludes that one may rely upon the *Magid Mishna's* ruling for *Issurim d'Rabbanan* but not *Issurim d'Oraisa*.

As always, each situation must be judged independently by a qualified *Posek*.