

# HALOCHOSCOPE <sup>TOI</sup>

A *doulah* (literally, the Greek for maidservant) is a professional childbirth coach. Her job is to soothe the mother in labor and to calm her nerves. This makes the childbirth run much more smoothly than with no such coach. People hire doulahs and pay them well. Often the doulah will orchestrate the entire process, by her being the first contact when the mother goes into labor. The doulah will then contact the doctor and arrange the hospital admission. However, she is not a medical practitioner, and may not interfere in the actual delivery in any way.

May one call a doulah to attend a childbirth on Shabbos? Is there any advantage or disadvantage to calling a gentile doulah to actually come and pick up the patient, rather than have her driven by a Jew?

The issues:

(A) *Pikuach Nefesh*, attending to the dangerously ill, on Shabbos

(B) Childbirth in general, and specifically on Shabbos

(C) *Yisuray Daata*, soothing the panic of a woman in labor

(A) *Pikuach Nefesh on Shabbos*

In a life-threatening situation one should rather violate a commandment in the Torah than put his or another life in danger. The term used for this is *Pikuach Nefesh*, based on an example in the Talmud. A wall has collapsed on Shabbos burying someone who might still be living but could die if he is not dug out now. If someone might be buried in the rubble, one may be *Mepakeach Hagal*, check through the debris, which involves a *Melacha*, (such as *Chofair Guma*, digging a hole, a *Tolda*, sub-category of *Choresch*, ploughing,) to see if there is a *Nefesh*, a live person there. Hence the term *Pikuach* - the checking out of *Nefesh*. [Alternatively the term could mean “releasing”, see Rashi Yuma 84b and Metargem on Rashi Kesuvos 5a.]

There are three exceptions to this rule, known as the three cardinal sins, where one is obligated to risk losing one's life rather than transgress. Shabbos is not one of the three and may therefore be violated in cases of *Pikuach Nefesh*. A number of reasons are given by the Talmud for Shabbos being violable for *Pikuach Nefesh*, some of which are unique to Shabbos. However, the reason accepted as final is that used for the rest of the Torah, too. We were commanded

to live by the Torah and not to die by it, based on a Passuk in Parshas Acharei Mos, (18:5).

We will never do justice to the vast complexities of the Halachos of Pikuach Nefesh here. They must be studied carefully from the relevant sources under the guidance of a competent Rabbi. We will, however, select some details relevant to our case to clarify the issue. There are two views in the Poskim to how Pikuach Nefesh supersedes Shabbos. (i) *Hutra*, that with regard to Pikuach Nefesh it is as if it is not Shabbos and everything is totally permitted. (ii) *Dechuya*, that we do not totally ignore Shabbos as if it is non-existent, but treat the matter as a conflict between the obligation to keep Shabbos and the obligation to protect and save lives, in which the Mitzvah of Pikuach Nefesh takes precedence. The difference between the two reasons is shown in a case where the conflict can be resolved without necessarily violating Shabbos, for example, if there is a way to accomplish the same end in a more permissible manner. According to (i), one may do any Melacha for a dangerously ill person as if it were a normal weekday, while according to (ii) there is no reason for Shabbos to be pushed aside since there is no real conflict.

A *Sofeik*, mere possibility of Pikuach Nefesh is usually sufficient reason to do a Melacha on Shabbos. In a case where there is no chance that the patient will die (of this particular ailment) this Shabbos, but the Melacha is necessary to prevent him from possibly dying later one should still do the Melacha. Generally, one may not take any action on Shabbos in preparation for after Shabbos, - *Hachanah*. However, where Pikuach Nefesh is involved all necessary preparations are allowed. For example, a doctor is paged late on Shabbos afternoon, to attend to a patient at a distance that will take him until after Shabbos to reach. He is obligated to leave right away on grounds of Pikuach Nefesh, although he will be driving on Shabbos and in preparation for after Shabbos. In the same way, other measures may be taken to assure the availability of the doctor's services for Pikuach Nefesh.

An important detail in the laws of Pikuach Nefesh is that a professional doctor may not refuse to attend the sick; refusal is considered tantamount to murder! Even if there is another equally qualified doctor available, one doctor should not step aside in favor of another because, the Talmud says, "not every doctor is suited to the patient." Therefore, he should not assume that another doctor can do the job just as well. Accordingly, this applies to all health care professionals in cases of Pikuach Nefesh on Shabbos too. However, this rule only applies to a person specifically requested by the patient or the hospital. All of this would apply, needless to say, to a Jew calling any of these, even if they are gentiles. The Jew is not a doctor,

but he must violate Shabbos to save the patient, by calling for the help.

Since the Talmud's definition of a doctor is a professional who can aid in the healing process, this would apply to anyone in the process. Thus an EMT, a nurse, and, if indeed we determine it to be the case, a doulah, would all be required to violate Shabbos. In fact, in this case, this is especially the case, since the mother has been coached by this particular coach all along. She is paying her well, and desperately wants her by her side.

In general, when a Pikuach Nefesh situation presents itself one should not hesitate. He should run to save the life of another Jew. It is even preferable in the majority of cases that an adult Jew occupy himself with this Mitzvah. According to some, the more learned the better. Nonetheless, if a gentile is available who is vastly more professional, obviously, one risks more by having an amateur Jew attend, than by leaving it to the gentile.

The issues in our case are That using the telephone involves some form of Melacha. However, since there is no light switched on, or not necessarily, the violation is Rabbinical. It can be done with a *Shinui*, unusual fashion, with no disadvantage in terms of time. If it is a matter of one phone call, placed either to a doctor or to another professional who will then call the doctor, there seems to be no issue to discuss. Driving certainly involves Scriptural Melacha, Gas is burned countless times, and many lights go on and off. Carrying also takes place. If a gentile can be engaged to do it with the same expedience, less Chilul Shabbos will result. The issue is whether the entire idea of involving the doulah is appropriate. [See Yuma 83a-85b, Rashi 84b beginning "Lo Sofeik ..." commentaries and Poskim, Rosh 8:14, Rashi Sanhedrin 74a. Rambam Hil. Shabbos 2:1 and end 2. Teshuvos Rashba Vol I No 689, Rosh Klal 26:5. Bais Yosef, Bach Orach Chaim 328, Avnei Nezer O.C. 455:5 etc. Shulchan Aruch O.C. 329, Biur Halacha :4. Yoreh Deah 336:1. Igros Moshe O.C. 1:131. Halochoscope I:20.]

### **(B) Childbirth**

The Talmud considers childbirth Pikuach Nefesh. However, since risk of life-threatening complications is not so common, the rule is that one should always try a *Shinui*, provided it does not delay matters. In addition, one should try to anticipate all the problems that could arise, and during the ninth month prepare as much as possible to avoid Chilul Shabbos. Nonetheless, this should not stop one from doing anything that comes up, even if he should have been better prepared.

Certain things make it easier for the mother or newborn, but are not necessary to save life. These are listed by the Navi, and we derive from there that, though they

involve Rabbinical violations, they are permitted. The Talmud says that real Pikuach Nefesh applies as soon as the cervix is open. Since this is not readily visible, the Talmud gives three opinions on when this begins, when she sits on the delivery table, when she has any bleeding (possibly any discharge as well), and when she is unable to walk unaided. The Poskim accept any one of these signs. However, one should only wait until this point for those things that can be put off until then. Things like calling the doctor, or transporting her to hospital should not be delayed. Once it is established that the woman is probably going to give birth, one begins to take action. She is considered in danger for three days after childbirth. During this time we do not even ask how she feels before doing Chilul Shabbos. The following four days are a transition period, when she is trusted to decide whether she needs Shabbos to be violated. [See next section.]

### *(C) Yisuvai Daata*

Normally, one would not allow a sick person to violate a Mitzvah unless the experts agree that it is necessary. The Talmud makes a special provision for childbirth. If she feels that she needs something done to calm herself, it is permitted. For example, if the mother claims that she is bothered by the dark, one may kindle a light. This even applies to a blind mother. Though she herself gains no direct benefit, she feels more secure if there is light for those attending to her. The reason an expert opinion is not necessary is that if she should panic or be very nervous, the entire process could become very dangerous. Thus anything done for *Yisuvai Daata*, calming her, is permitted. [See Shabbos 128b-129a, Poskim. Tur Sh. Ar. O.C. 330:1-4, commentaries.]

In our case, the doulah is exactly that. Her entire purpose is to calm the mother. In fact, the mother can probably not imagine managing without her. Accordingly, the doulah would be considered a worthy reason to be Mechalel Shabbos. In addition, by placing the one call to the doulah, more Chilul Shabbos can be avoided. Since she is a competent professional, and is being paid (a vested interest) one may rely on her even if she is a gentile. The arrangement is to have the doulah at the birth no matter what. Therefore, even though she lives some distance from the hospital, she will make it her business to get there for the labor and delivery. Thus, even if it would delay matters somewhat, one could wait for her, and rely on her to transport the mother to hospital.