


# HALOCHOSCOPE



might be when the abnormality causes loss of function, or in our case, loss of sleep. In this case, the reason for the result is the individual's personal inability to fall asleep again easily. Others might not be bothered. The Talmud admires one who keeps a regular regimen of urinating, or at least trying to. This is considered extremely healthy, as it cleanses the body. Nonetheless, there is a point at which it becomes abnormal.

Insomnia is debated by the poskim. Some consider it *michush*, while others say that healthy people can also suffer from this. Thus, there are varying views on how to approach taking sleeping pills. Some say that they do not really medicate. Some say that they are so commonplace that there would be no decree against procuring them on *Shabbos*. Some say that the condition is not an illness, but unhealthy. Therefore, medicating it is not forbidden. Some, however, reject these reasons. Of these, some still permit it based on the possibility that the lack of sleep is like a systemic illness, combined with the loss of *oneg Shabbos*. In our case, the concoction treats the cause that wakes the person up at night, rather than as a sleeping pill.

Thus, our case could be considered healthy by some, but a medical condition by others. The potion recommended by the alternative medicine practitioner seems to work. It would be considered medicine by the Talmud. It is a mixture of ground up herbs inside a capsule, a classic case of the Rabbinical prohibition. Although it does not require a prescription, and is not sold as a pharmaceutical product, it is also not consumed by healthy people on a regular basis. The complainant seems to view his complaint as a medical condition, but not more than *michush be'alma*. The potion requires time to take full effect. To work properly, it must be taken regularly and three times a day. However, missing two doses will not cause danger. In the long term, the effect will be accomplished anyhow. Some poskim maintain that preventive measures do not count as *refuah*. It could be argued that the entire approach of this alternative medicine is preventive. However, since the treatment is for a time period, with an aim of curing the condition, it is hard to call this preventive. There seems to be no reason to permit it on *Shabbos*. [See Refs. To previous sections. Shmiras Shabbos Kehilchasa 34:20 33:16:67. Eshel Avraham (Butch) OC 327. Ketzos Hashulchan 138, end, Badei. Tzitz Eliezer VIII:15:14. XIV:17:2:40. Mishneh Halachos IV:51:2. Minchas Yitzchok III:35:2. Yabia Omer OC 29.]

In conclusion, this medicine should not be taken on *Shabbos*.

**On the parsha ..** *By day I was consumed by blistering heat and by frost at night, and sleep was driven from my eyes ... [31:40]* Yaakov holds it against Lavan that he was deprived of his sleep due to the frost – *gezel shaina*. He claimed that he suffered a loss for which he never asked for payment. There is no money value to sleep! Perhaps Yaakov's claim was that the injury to his eyes had a monetary value. Or perhaps the loss can be calculated by the cost of sleep medicine. Or perhaps, the cost of protection from the causes of the loss of sleep, protection from the elements, is a valid complaint.

Sponsored by Noah Bass and Deborah Rotenstein in memory of his father Mordechai ben

Noach, z"l, whose *yahrzeit* was on the 3<sup>rd</sup> of Cheshvan. א

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## This week's question:

Someone wakes up frequently during the night to urinate in small amounts. It is often hard to go back to sleep. This disturbs him enough to have sought medical advice, including alternative medicine. A remedy that seems to help is in the form of a capsule of a herbal compound, taken three times a day. The medicine is meant to be taken uninterrupted for a time period, until the problem is under control. May he take this on *Shabbos*?

## The issues:

- A) *Refuah*, medicating, on *Shabbos*
- B) *Derech bri'im*, something used by healthy people
- C) *Michush be'alma*, what counts as a true medical complaint

## A) *Refuah on Shabbos*

On *Shabbos*, it is Rabbinically forbidden to take medications. In earlier times, medicines were made by *Shechikas Samemanim*, crushing herbs. This is a *Tolda*, sub-category, of the Scriptural *Melacha* of *Tochain*, milling. Being unprepared for a medical situation that arises, one might violate this. As a precaution, all medicines are forbidden. Both the patient and the caregiver are included in the restriction.

This ordinance applies to medicines made by mixing ingredients, taken internally or externally. Rather than institute a restriction on medications, the prohibition takes the form of an ordinance forbidding all healing. However, there are exceptions. Healing is restricted is as a precaution against inadvertent violation of the Scriptural *melacha*. Therefore, therapy that does not involve medicine, but is for an ailment also treatable with a medicine, is forbidden. An ailment never treated with a potion, but always with physical therapy, may be treated in its normal way. There is no risk of violating *melacha*.

The restriction does not apply to all patients equally. There is a hierarchy of severity of illness, ranging from *michush be'alma*, minor complaints, to *choleh sheyaish bo sakana*, the dangerously ill. All restrictions (including most Scriptural prohibitions) are suspended when treating a dangerously ill person. For minor complaints all restrictions apply. A patient so sick that he needs to lie down, or in pain all over his body, is considered *choleh she'ain bo sakanah*, non-dangerously ill. Many restrictions are lifted for him. No *melacha* may be violated. Rabbinical prohibitions are kept as much as possible; violations can be mitigated by having a gentile do them or by doing them in unusual fashion.

Many internal ailments are considered *yaish bo sakanah*. The Talmud defines internal as from the teeth and inwards. Some external wounds are also included in this class. The risk of infection or festering, such as when a non-sterile iron implement caused the wound, is sufficient to allow *refuah*. In many cases it is considered *yaish bo sakana*. Accordingly, one on a course of antibiotics, even for an external infection, should continue

with them on *Shabbos*. The infection strengthens itself in resistance to the medicine. Interrupting the course will make it harder, if not impossible for the medicine to eventually counteract the infection. If a medical expert determines that the risk is sufficient, one may begin a course on *Shabbos*. In our case, though the expert has determined that the potion must be taken uninterrupted, there is no danger in stopping for a day. The patient could take it before and after *Shabbos*, missing the first two doses on *Shabbos*. However, it could interrupt the adjustment that the body will eventually make, delaying for an unknown length of time. This does not seem to factor in the discussions by the poskim on continuing medication. [See *Shabbos* 108b-109b, Tur, Shulchan Aruch, Orach Chaim 328: esp. 5 6 7 40-44, Mishneh Berurah 8. 329. Halochoscope XIV:42.]

### **(B) Derech Beri'im**

A major exception to the restrictions against *refuah* is *derech beri'im*, something that is not usually considered healing. This includes three categories. Firstly, some foods, drinks, lotions, oils and sprays used by healthy people can also be used to treat an ailment. For example, prune juice could be a normal beverage or drunk to relieve symptoms of constipation. Since a healthy person using it is not healing himself, it may also be taken as a *refua*. [A laxative potion may not be taken even when it is not intended for its laxative, *refua* use. It will lead to discomfort. This violates the *mitzvah* of *oneg Shabbos*.]

The limitation on this is that it may not appear obvious that the person is taking it as a treatment. On a skin condition one may use oils that are also used by healthy people. [A specifically medical mixture may not be used for this. By definition, it is being used to heal. However, if a foot spray claims to be helpful for some conditions but is used by many people as a regular spray, it may be used even by those with the condition, provided it is not obvious.] In circles where this oil is not used by healthy people, it is forbidden. On an obvious wound it is evidently used as a medication. A rash where the skin is not broken is not considered an ailment by some Poskim. Accordingly, a person may spread oil on this, just as a healthy person would. However, if the skin is broken, it is forbidden. One may, however, pour it onto a healthy area of his skin and let it run onto the sore area by itself. At the point of application there is no obvious sign of healing.

Some poskim maintain that only healthy people may eat these foods. Eating them for medicinal purposes is included in the restriction on *Shabbos*. The reason that there is a need to permit it for healthy people is that one could think that due its medicinal properties one may not even consume it at all. The other view maintains that there would be no need to permit it for these uses. In practice, many poskim follow the stringent view, unless other factors mitigate the case.

Secondly, certain uncomfortable conditions are not considered ailments. Taking care of them is a matter of general health. Examples of these include chewing *matztiki*, a tree gum used to dispel bad breath. The same item can be used as a tooth medicine. Dispelling bad breath is not considered healing. Tooth healing is forbidden. Other examples include preparations to improve the voice, remedies that supposedly dispel drunkenness, and in former times, inhaling tobacco smoke or snuff. [If the tobacco was burned and the smoke collected before *Shabbos*, it may be inhaled on *Shabbos*. Smoking was once considered healthy, and a question was raised about inhaling it for health reasons. Since the

condition requiring its inhalation was normal, it was not considered *refua*.]

Thirdly, some preparations involve *shechikas samemanim*, but are not taken as a *refua*, but as a nutritional supplement by healthy people. This is not food or drink, but it is also not for a condition considered to be an ailment. Nonetheless, it involves the reason for the initial institution, despite the fact that if taken regularly, one anticipated its use and prepared it ahead. The supplement is often taken to strengthen one's constitution, which is considered *refua* by some Poskim. However, if one is normal, adding the extra measure of strength is not considered healing. A weak person who is not sick but whose constitution needs the boost is 'healing' his 'condition' with this supplement. [In some circles supplements are taken as a substitute for foods that provide such nutrition.] Furthermore, according to some poskim, the initial institution preventing possible *shechikas samemanim* was never made for healthy people. Accordingly, some Poskim consider it *maachal beri'im*, regular food, and permit 'eating' them when not obviously treating a condition. [Similarly, a prepared aqueous lotion, even claiming to be medicated, such as moisturizing lotion, may be used by healthy people.] Other poskim forbid them.

Another factor to consider is the healing properties of the remedy. The Talmud is *halachically* considered a medical expert. One must always take into account the conditions considered serious by the Talmud as well as by a medical professional. For example, when a doctor says a condition is not dangerous, contradicting the view of the Talmud, one follows the Talmud. The Talmud permits using most kinds of leaves to apply to a sore eye. It might be widely believed that they heal, but the Talmud says they do not really work. They might even do harm. Since it does not really help, it is not forbidden as a *refua*. Accordingly, folk-remedies that are not substantiated by the Talmud or a doctor are not forbidden on *Shabbos*. [Undoubtedly, some 'alternative' experts would be recognized by the Talmud's standards, but not everyone can claim expertise.] Many 'natural' remedies commercialized today fall into this category. Some even have fine print disclaimers contradicting their bold-type claims. These may be used on *Shabbos*.

Medicine redresses an imbalance in the body. Thus, it would be unhealthy for the healthy person to eat, drink, rub, spray or take it in any form. Thus, if healthy people use a product, one may presume it to be *derech beri'im*, even if it is also used to treat an ailment. However, if it is expensive, and only 'princes' use it regularly, it is evident that the patient is using it for special reasons, i.e., healing. [See *Brachos* 38a *Shabbos* 108b-111b, Poskim. Tur, Sh. Ar., O.C. 327:1, Rema. 328:22 24 29 36-38 41 44, Magen Avraham 43, Biur Halacha (beginning Aval), Be'er Heitev 30, Mishneh Berurah 127, 140. Igros Moshe I:30, III:54. Be'er Moshe I:33. Shmiras *Shabbos* Kehilchasah 21:8 11, 24:1 5-6, notes.]

### **C) Michush be'alma**

Some 'conditions' are not considered a medical minor complaint. People take care of them as a matter of health and hygiene. Furthermore, many imbalances are within the range of normal for most people. Some individuals might have a sensitivity for them. Some people find a urinating slightly more often bothersome, while others take it in stride. Both might adjust their diet or behavior to deal with it. The first person considers it abnormal enough to be a medical complaint. The latter would never bother seeking medical advice on it. At some point, normal people would seek medical advice. This