

You know, people take this day so very seriously - you would think it was a matter of life and death. I think we should lighten up a little bit and play a game. Let's play a game I like to call: "Permitted or not permitted?"

Cheeseburgers? Permitted or not permitted? Nope, not permitted. The prohibition stems from "You shall not boil a kid in its mother's milk."¹ The rabbis extend the prohibition to include the mixing of any meat with any milk product and so cheeseburgers are not permitted.

What about creamed herring? It's fish, not meat... Actually, this is a trick question. The Talmud in Chullin 103b permits fish to be mixed with milk. However in Beit Yosef, a law code by Joseph Karo who was also the author of the Shulchan Aruch another law code, it is not permitted to mix fish and milk for health reasons. So, the custom for some people is not to mix milk with fish at all. For others the custom is to mix fish with all dairy products (think cream cheese) but not for liquid milk. Yet others say it was all a just a printer's error and any type of milk with fish is perfectly fine, thank you very much, please pass the creamed herring. And don't leave behind the onions.

What about a suit that's made with both wool and linen? Permitted or not permitted? Not permitted. The combination of wool and linen is called shatnez and it is specifically prohibited in the Torah². What about a shirt made of cotton and polyester? Permitted - but would you really want it?

Is it permitted or not permitted to save a life? Actually this too is a trick question because in Judaism to save a life, *pikuach nefesh*, is the equivalent of saving the entire world, so it's actually required. In fact, if you can't save a person directly but you can by hiring someone else, then you're required to pay for the rescue³. But if saving the other person possibly puts your life in danger, then you're permitted, but not required to try to save them. For example, donating a kidney could put your life in danger, so you're permitted to donate a kidney, but you're not required to donate a kidney.

Is it permitted or not permitted to heal someone who is ill? This is not as weird a question as you think it is. If you believe that illness is Divine punishment for wrongdoing, then only God should heal the sick and the appropriate treatment for any illness is prayer. Rav Acha says as much in the Talmud, Berachot, 60a: "One who goes to

¹ Exodus 23:19

² Deuteronomy 22:11

³ BT Sanhedrin 73a

have his blood let says: ‘May it be Your will Adonai, my God, that this therapy should serve me as a remedy, and that You should heal me, for You are God, the faithful Healer, and it is Your remedy that is genuine. For it is not the place of people to seek medical treatment, but so have they accustomed themselves.’” Yet the Talmud immediately rejects Rav Acha’s assertion that only God is permitted to heal: “Abaye said: ‘A person should not say this for a baraita was taught in the academy of Rabbi Yishmael [quoting the Torah] “and he shall provide for healing.” From here [we may derive] that permission was given to a physician to offer treatment.’”

The development of Jewish Law actually takes the permission to heal and marries it with the obligation to save a human life, *pikuach nefesh*. In the Shulchan Aruch the legal ruling becomes: “The Torah gave permission to the physician to heal; moreover, this is a religious precept, and is included in the category of saving life, and if the physician withholds his services, it is considered as shedding blood.⁴” That is, one who deliberately withholds healing is the equivalent of a murderer. Make no mistake, however, it is not only physicians who could potentially be held as the equivalent of murderers because they withhold treatment. No, as we’ve already seen with regards to *pikuach nefesh*, the saving of a life, if you yourself can’t save a person’s life, you must pay for them to be saved. You may not have the skills of a physician to save a person’s life, but as God commands in Leviticus 19:16, “You shall not stand idly by the blood of your neighbor.” You must act to save your neighbor even if you must hire someone to do so.

The provision of medical care is fundamental in Jewish Law. In a marriage, where the husband’s financial responsibilities to his wife are delineated within Jewish Law, a husband is required to provide food, shelter and other material needs. In Mishnah, Ketubot 4:9, it also states: “If she came to harm, he must heal her.” That is, providing proper medical treatment was considered a husband’s obligation to his wife’s maintenance just as much as food, or shelter, or any other material need. Scholars were limited in where they could live: “Any town that does not have these ten things, a scholar is not permitted to live there.⁵” Items five through eight on the list are: “a bathhouse, an outhouse, a doctor, and a bloodletter.⁶” A bathhouse and an outhouse, in a time period where there was no indoor plumbing, were matters of public sanitation and

⁴ Shulchan Aruch, Yoreh De’ah 336:1, as quoted in Matters of Life and Death by Rabbi Elliot Dorff, page 28.

⁵ BT Sanhedrin 17b

⁶ Ibid.

hygiene, so that disease would not run rampant. The doctor and bloodletter were the two professionals who saw to the healing of individuals. And so we see that at both an individual family level and at a communal level, the provision of medical care is required.

As the debate has raged around us over the future of our health care system in the United States, the electorate has divided over the issue of whether people can demand adequate health care. Some people have said that it's a fundamental human right to receive adequate health care, just as much as it is to receive adequate food and shelter. Others have said there is no such fundamental right in the U.S. Constitution that people can claim. Me? I have no idea if adequate health care is a right guaranteed by the constitution. But I sure do know that under Jewish Law and Tradition, providing adequate health care is a moral obligation. We are morally obligated to provide for the health care of every resident within the United States of America. Health care may or may not be a right, but it sure is a moral obligation.

Our system of health care is so completely broken, that it is astonishing. We are the wealthiest nation on the planet with the highest Gross Domestic Product by far. In 2007, our GDP was 12.4 trillion dollars⁷; that's trillion, with a "t". The next closest was Japan which came in at 4.5 trillion or a little over 1/3 of our total. We also spend the most on health care as percentage of GDP: 15.3%⁸. So not only do we spend the most as a percentage of our GDP, we're spending off of the biggest base as well. We are by far, the biggest spenders on health care, bar none. And what do we get for our money? One measure of how well our health system works is life expectancy at birth where we rank, drum roll please, 47th in the world⁹. Okay, so we tend to shoot each other and die in car crashes more frequently than in other countries, so maybe this isn't a perfect measure of health care. Instead we need to look at the Disability-Adjusted Life Expectancy, an index created by the World Health Organization. Basically, this index is trying to measure how long you live a healthy life. According to the DALE index, we ranked 24th.¹⁰ A society can be judged by how it treats its children. When it comes to rates of infant mortality, we ranked 22nd,¹¹ with over twice the number of babies dying before their first birthdays than Japan, the country with the lowest infant mortality rate. When you boil it all down, we

⁷ Pocket World in Figures 2008 Edition by The Economist, page 26

⁸ The Healing of America, by T.R. Reid, page 9

⁹ Ibid. Page 241.

¹⁰ Ibid. Page 244.

¹¹ Ibid. Page 256.

spend, by far, the most money on health care and we receive mediocre results at best. We are spending a fortune, but not getting its value. Our system is broken.

So why are we in such a mess? Let's look at the doctors. There aren't any doctors here are there? Fortunately for me, I don't think we can pin this on the doctors. I don't know of anyone who became a doctor just to get rich. Because they want to help people? Yes. Because it's an honorable and prestigious profession? Yes. Because their parents pressured them into it? Yes. To get rich? No - that would not have been a very good choice. First you have to go to college and then medical school where you spend hundreds of thousands of dollars. Then you spend years in residency and even more years if you're a specialist. There are a lot easier ways to get rich. And if you compare doctors' compensation between Europe and here, adjusting for the free medical education in most of Europe and the differences in malpractice insurance, our doctors aren't paid too much.

Ah, malpractice insurance - here's something we can latch onto. American doctors can expect to pay between 50 and 100 times the insurance costs as compared to a doctor in Europe - and it isn't because they're 50 to 100 times more careless. In Europe, a doctor can't be sued if they practice conscientious care that is accord with standard medical practice. Coincidentally, this standard is the same standard as applies within Jewish Law¹². In the United States, a doctor can be sued for any outcome. As a result, doctors in the United States often practice defensive medicine - ordering unnecessary tests, just to make sure any potential lawsuit would be better defended. The thing is, even if we were to enact tort reform, lower malpractice premiums, and eliminate defensive medicine, we would only cut our health care expenditures by about 1%¹³.

No, it's not our doctors or our lawyers who lead to our sad results. It's our insurance system that is complicated, costly and inefficient. Our insurance system is overly complicated by the number of insurance companies and the multitude of plans each of those companies offer. Every single doctor's office is forced to have someone or a whole department just to fill out the various forms. And of course it's all on paper, rather than in electronic form, leading to duplication of efforts and sometimes medical errors. Then the insurance companies themselves have whole departments dedicated to

¹² Jewish Living by Mark Washofsky, page 229.

¹³ Healing of America, page 36.

the filing of forms, the denial or approval of care, and of course you have to include their profits. All in all, we spend about 20% of every health care dollar on administrative costs. Taiwan, a Canadian style system that's highly automated and efficient, spends approximately 2% on administrative costs. How about Canada itself? They spend about 6%. France, which has a private system of insurance, spends about 5%.¹⁴ Because our system is too complicated, we spend between three and four times as much on administrative costs as other countries spend.

The insurance companies do try to contain costs - they are, after all, driven by the profit motive. But their cost containment leads to perverse outcomes that actually lead to worse health care. How do you keep from spending money on health care? Eliminate people with pre-existing conditions. And if somehow, someone sneaks through with a really expensive illness? Search through all their medical records to find something, anything that would enable the company to rescind coverage. Here's the thing: every single person in the room, every human being on Earth has a pre-existing condition called mortality. Every one of us at some point is going to need some type of health care. And every single one of us is at risk of losing our health insurance through the denial of pre-existing conditions or through rescission.

Insurance companies are driven by another perverse incentive to give us worse health care. I'm in my seventh year in the rabbinate and I've worked at two congregations. During these seven years, I've had five different insurance companies and eight different health insurance plans, each one worse than the previous. Insurance companies know that they're not going to have you as a patient, 10, 15, 20 years from now. In fact, the average person stays with the same plan for less than 6 years¹⁵. And certainly by the time you're 65 you'll be off onto Medicare. So why bother paying for preventive medicine now, when the savings won't be seen until later when the insurance company won't benefit from it? The only logical reaction is to deny preventive medicine for as long as possible to save as much money as possible.

Of course the most horrific scandal of all in America is not that our insurance is too complicated, costly and inefficient. The true scandal is that 45 million of us aren't insured at all. And those of us who get our health insurance through our jobs are just one

¹⁴ All administrative cost figures from *The Healing of America*, page 229.

¹⁵ *Ibid.* Page 186.

layoff away from being uninsured ourselves. And in this country if you don't have health insurance, you don't have health care. You can't get routine medical care out of an emergency room. You won't get preventive care in an emergency room. Every year, 22,000 people in the United States die of preventable disease because they lacked adequate access to medical care¹⁶. We have stood idly by the blood of our neighbors as they die in the thousands. We as a society have their blood on our hands; we stand guilty of their murder. Our brothers' blood cries out in condemnation of our indifference. How many more must die before we act?

We need a health system that cares for every human being who resides in the United States. Every human being is created in God's image and is a child of God. We have the moral obligation to care for every resident of the United States, regardless of their legal status. In the midrash, Sodom and Gomorrah are described as having sapphires for rocks and gold for dust, much in the way that the United States is described as having its streets paved in gold. And in the midrash, the inhabitants of Sodom said: "We live in peace and plenty - food can be got from our land, gold and silver can be mined from our land, precious stones and pearls can be obtained from our land. What need have we to look after wayfarers, who come only to deprive us? Come let us see to it that the duty of entertaining foot travelers be forgotten in our land. ... When a poor man came to the land of Sodom, each Sodomite would give him a dinar with the Sodomite's name inscribed on it, but not one of them would sell him a morsel of bread to eat. Eventually, when the poor man died of hunger, each Sodomite would come to claim his dinar. There was a maiden in Sodom who once brought a morsel of bread concealed in her pitcher to a poor man. When three days passed and the poor man did not die, the reason for his staying alive became clear. The Sodomites smeared the maiden with honey and placed her on a rooftop, so that bees came and stung her to death."¹⁷ From her outcries, God declares the destruction of Sodom and Gomorrah. Shall we be like Sodom and Gomorrah? Shall we be the wealthiest nation on earth, yet stand idly by while those who live among us die? Shall we not recognize health care not as a right, but as our moral obligation?

Unetaneh tokef kedushat hayom ki hu norah v'ayom. Let us proclaim the sacred power of this day; it is awesome and full of dread.

¹⁶ Ibid. Page 208.

¹⁷ The Book of Legends by Bialik and Ravnitsky, pages 36-7.

On Rosh Hashanah it is written; on Yom Kippur it is sealed. Who shall be ill and who shall be well. Who shall be secure in their coverage and who shall be bankrupted. Who shall be treated and who shall go without. Who shall live and who shall die. But Universal Health Care will temper judgment's severe decree.

May all of us be sealed for blessing and health in the coming New Year.

G'mar Chatimah Tovah.