



## Nedarim and Doctors

The *Mishnah* (4:4) discusses a case where one person, *Reuven*, made a *neder* preventing another, *Shimon*, from deriving any benefit from him. After that, *Shimon* then fell ill. The *Mishnah* teaches that *Reuven* would be able to visit *Shimon* if he stands but does not sit there. The *Bartenura* explains that the *Mishnah* is referring to a location where people are paid to sit by sick people. Were *Reuven* to sit there without being paid, it would be a violation of the *neder*.

The *Mishnah* continues that *Reuven* would also be able to provide *refuat nefesh* but not *refuat mamon*. The *Bartenura* explains that *refuat nefesh*<sup>1</sup> refers to healing any of *Shimon*'s physical ailments, which would be allowed. *Refuat mamon* refers to healing his animals, which is not allowed. The difference is that one is obligated to heal his friend, which is covered by the *mitzvah* of returning his lost property. Consequently, it would not be a violation of the *neder*. The *Rashba* however finds this explanation difficult considering that *hashavat aveida* could easily include *refuat mamon* also.

The *Ran* (41b) explains that this case is where there is another doctor that can assist. Consequently, for the *refuat mamon* it is no longer *hashavat aveida* since someone else can tend to the problem. Nevertheless, for *refuat nefesh*, *Reuven* would still be allowed to heal *Shimon* since one is not necessarily healed from any doctor.

The *Rashba* however, understands that even if there was no one else, *refuat mamon* would not be allowed. This is because providing health recommendations for medicines, etc. would be sufficient in most cases, rather than providing active care. Consequently, in such cases it would be considered like there is someone else that could provide the service. In other words, in principle the *Rashba* agrees with the *Ran*, yet reduces the scope of where one can be lenient.

The *Chazon Ish* (YD 144:3) cites *R' Akiva Eiger* who poses a question on the *Ran*. He argues that *refuat mamon* is different to *hashavat aveida*. *Hashvat aveida* is simply returning to the owner what belongs to him. *Refuat mamon* however is comparable to feeding his animal, which clearly prohibited in this context. That being the case, *refuat mamon* should always be prohibited.

The *Chazon Ish* however argues that even *hashavat aveida* is effectively increasing his wealth, considering the alternative if it was never found. Viewed in that light, there should not be difference between *refuah mamon* and *hashavat aveida*.

The *Chazon Ish* therefore explains that the issue is not whether *Reuven* would cause an increase in *Shimon*'s property. Instead, it is the effort exerted by *Reuven*, which has a value. It is the effort that *Reuven* is providing for *Shimon* that could potentially violate his *neder*. When considering *hashavat aveida*, the exertion is a *mitzvah* obligated by the *Torah*. *Reuven*'s prime effort is in the *mitzvah* and *Shimon* simply benefits by extension. That would not be a violation of the *neder* and is also the reason why *Reuven* can visit him when he is unwell.

If so, how then do we understand the distinction presented by the *Ran*? What difference does it make if there is another person that can tend to the animal? If *Reuven* was a *kohen* he would be able to offer *Shimon*'s *korbanot* even if there were other *kohanim* available. The *Chazon Ish* explains that behind this distinction is whether there is a *mitzvah* of *hashavat aveida*. Being defined as an *aveida* in the presence of the owner, is when there is only one person that can save the situation. However, when there are options available, even if the owner cannot do it himself, it is not defined as an *aveidah* or *mitzvah*. If not defined as an *aveidah*, then the *Torah* does not obligate the service provider to do so for free.

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<sup>1</sup> The *Shoshanim le'David* picks up on the language *refuat nefesh*, noting that the more direct term would have been *refuat guf*. He explains that the choice of words informs the *mitzvah* of *bikur cholim* – visiting the sick. In other words, when visiting the sick, one need not only be concerned for the physical wellbeing of the sick person, but he also need to tend to his spiritual concerns also.

The *Shoshanim le'David* provides an additional explanation for the choice of words. The *Tosfot Yom Tov* cites the *Rosh* who explains that he permits

from *Reuven* to heal *Shimon* is only in a location where one does not get paid for this service. For example, a *Hatzalah* responder. Otherwise, it would be forbidden for *Reuven* to heal him for free, since forgoing the fee would be providing *Shimon* with a financial benefit. The *Shoshanim le'David* therefore suggest that the choice of the *refuat nefesh* refers to the intention that the reward for his service is purely for his *nefesh* and not compensation.

## Revision Questions

נדרים די: ו' – ו' ג'

- If a person makes a *neder* preventing any benefit from his friend, can his friend eat at the same table? (ד': ד')
- What is the difference between one that makes a *neder* against gaining benefit from his friend before the *shmittah* year and during the *shmittah* year? (ד': ה')
- If a person makes a *neder* preventing any benefit from his friend can they do business with one another? (ו': ו')
- If a person makes a *neder* preventing any benefit from his friend yet then does not have any food to eat, how can his friend provide him with food? (ו': ו')
- If *Reuven* made a *neder* against gaining any benefit from *Shimon* and they were traveling together, and *Reuven* ran out of food, how can *Shimon* give *Reuven* food without breaching the *neder*? (ח': ח')
- If two people share a *chatzer* and make a *neder* against gaining benefit from each other: (ה': א')
  - Explain the debate regarding whether they can walk through the *chatzer* to get to there properties.
    - What other case shares this same debate? (ה': ב')
  - What are two thing that they cannot place in the *chatzer*?
- If *Reuven* made a *neder* against gaining any benefit from *Shimon*, when is *Shimon* forbidden from using an olive press that has been rented out by *Reuven*? (ה': ג')
- If one makes a *neder* against entering his friend's house, with what wording of the *neder* would he still be prevented from entering the house even if it was sold to another person? (ה': ג')
- If two people made a *neder* against gaining any benefit from each other, which public property would they be forbidden from entering? (ה': ד')
- Regarding the previous question, what is a possible solution to enable them to enter these properties? (ה': ה')
- Give examples for the following: (ה': ה')
  - *Davar olei bavel.*
  - *Davar shel otah ha'ir.*
- If *Reuven* made a *neder* against gaining any benefit from *Shimon*, then *Reuven* does not have any food to eat, what can *Shimon* do in order to give *Reuven* food? (ו': ה')
- Complete the following rule: (ו': ו')  
"כל מתנה שאינה \_\_\_\_\_ אינה מתנה"
- If someone made a *neder* against cooked food, can he eat roasted food? (ו': א')
- What *neder* would cover anything that is cooked in a pot? (ו': ב')
- What *neder* only includes pickled vegetables? (ו': ג')
- What is implied by the term "*ha'shaluk*"? (ו': ג')

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## Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
10 March ל' אדר	11 March א' אדר	12 March ב' אדר	13 March ג' אדר	14 March ד' אדר	15 March ה' אדר	16 March ו' אדר
Nedarim 6:4-5	Nedarim 6:6-7	Nedarim 6:8-9	Nedarim 6:10-7:1	Nedarim 7:2-3	Nedarim 7:4-5	Nedarim 7:6-7

