

## Vaccination and Ethical Questions Posed by COVID-19 Vaccines

Rabbi Micah Peltz

### Questions:

- Now that vaccines for COVID-19 are available, is there an obligation to be vaccinated?
- Can Jewish institutions require vaccination for employees, students, and congregants?
- What should be the guidelines for their distribution?

**Question 1: Now that vaccines for COVID-19 are available, is there an obligation to be vaccinated?**

רַק הַשְּׁמֶר לָךְ וְשָׁמֵר נִפְשְׁךָ מְאֹד פְּרִתְשֵׁפַח אֶת־הַדְּבָרִים אֲשֶׁר־רָאוּ עֵינֶיךָ וּפְרִי־סוּרוֹ מִלִּבְבְּךָ כֹּל יְמֵי חַיֶּיךָ וְהוֹדַעְתָּם לְבָנֶיךָ וְלִבְנֵי בָנֶיךָ:

*But take utmost care and watch yourselves scrupulously, so that you do not forget the things that you saw with your own eyes and so that they do not fade from your mind as long as you live. And make them known to your children and to your children's children. (Deut. 4:9)*

כִּי תִבְנֶה בַּיִת חָדָשׁ וְעָשִׂיתָ מַעֲקֶה לְגִגְתְּךָ וְלֹא־תִשִּׂים דָּמִים בְּבֵיתְךָ כִּי־יִפֹּל הַנֶּפֶל מִמֶּנּוּ:

*When you build a new house, you shall make a parapet for your roof, so that you do not bring bloodguilt on your house if anyone should fall from it. (Deut. 22:8)*

### Shulhan Arukh Yoreh De'ah 116:5

*הגה* וכן יזהר מכל דברים המביאים לידי סכנה **כי סכנתא חמירא מאיסורא ויש לחוש יותר לספק סכנה מלספק איסור** (ב"י בשם הש"ס) ולכן אסרו לילך בכל מקום סכנה כמו תחת קיר נטוי או יחידי בלילה (שם) וכן אסרו לשתות מים מן הנהרות בלילה או להניח פיו על קלוח המים לשתות כי דברים אלו יש בהן חשש סכנה... עוד כתבו שיש לברוח מן העיר כשדבר בעיר ויש לצאת מן העיר בתחילת הדבר ולא בסופו (תשובת מהרי"ל סי' ל"ה) וכל אלו הדברים הם משום סכנה ושומר נפשו ירחק מהם ואסור לסמוך אנס או לסכן נפשו בכל כיוצא בזה ועיין בחושן משפט סימן תכ"ז :

*Hagah:* Similarly, he should be careful of all things that cause danger, **because we treat physical danger stricter than ritual prohibitions, and one should be more careful with an uncertain danger than with an uncertain ritual prohibition.**

They also prohibited to go in a dangerous place, such as under a leaning wall, or alone at night. They also prohibited to drink water from rivers at night or to put one's mouth on a stream of water and drink, because these matters have a concern of danger... They also wrote to flee from the city when a plague is in the city, and one should leave at the beginning of the plague and not at the end. And all of these things are because of the danger, and a person who guards his soul will distance himself from them and it is prohibited to rely on a miracle in all of these matters.

Rabbi Joseph Prouser "Compulsory Vaccination in Jewish Day Schools" 2005

"Failure to immunize children against vaccine-preventable disease is a serious, compound violation of Jewish Law: there is no basis in Halakhah to support a parent's request for a religious exemption from state-mandated immunizations."

Rabbi Elliot Dorff in Matters of Life and Death: A Jewish Approach to Modern Medical Ethics, page 253

"With its strong sense of community and duty, the Jewish tradition would have us use communal measures to preserve our lives and health as much as possible. **It would be a violation of Jewish law, for example, for a Jew to refuse to be inoculated against a disease, at least where the inoculation has a proven track record of effectiveness.** Jews, on the contrary, have a positive duty to have themselves and their children inoculated against all diseases where that preventative measure is effective and available."

*Responses to the Smallpox vaccine and What is a Refuah B'dukah?*

Rabbi Israel Lipschutz

Rabbi Israel Lipschutz was an enthusiastic supporter of Jenner's vaccine. In the "Boaz" section of his Tiferet Yisrael commentary to Mishnah Yoma 8:3, he wrote that the infinitesimal risk, which he described as "one in a thousand" is appropriate against the much greater risk of contracting the illness.

Abraham ben Solomon of Hamburg

Smallpox was a leading cause of death in Europe in the 18th century, where an estimated 400,000 people died annually. This led Nanzig to an important conclusion. For Nanzig, smallpox is so widespread, and so contagious, that everyone should be considered at risk, and therefore the benefit of the vaccine,

even one that is new and without a long track record, as Jenner's vaccine was at the time, outweighs that risk. In other words, the greater societal benefit of taking the vaccine, along with the serious consequences of contracting the disease, outweighs the risk it might pose to a few individuals.

Rabbi Reisner (CJLS), the Observant Life

"... The halakhic concept of an 'established' treatment is much narrower than the current concept of an approved medication... From the vantage point of halakhah, an established treatment must be known to be generally effective."

Rabbi Golinkin, Va'ad Halakhah (Israel)

"If the vaccine is 95% effective and the only side effects so far are headaches and the like, then it's a *refuah befukah*."

*P'sak Din:*

1. Taking preventative measures against the spread of COVID-19, such as wearing masks, frequently washing hands, and physically distancing, are *mitzvot* and mandated by *halakhah*.
2. We reiterate that Jewish law obligates Jews to vaccinate themselves and others in their care, with medical guidance, with vaccines that have a proven and safe track record.
3. COVID-19 vaccines approved by government health agencies under emergency processes are considered to be *refuot b'dukot*, established treatments. With proper medical guidance, Jews are obligated to be vaccinated against COVID-19.

**Question 2: Can Jewish institutions require vaccination for employees, students, and congregants?**

Rabbi Prouser in “Compulsory Immunization in Jewish Day Schools”

“Unless a specific immunization is medically contraindicated, and so documented by a reliable physician, unvaccinated children – even those who, in violation of Jewish law, have secured a religious or philosophical exemption from the state – are properly denied admission to Jewish Day Schools.”

*P’sak Din:*

- 4. Jewish institutions are permitted, by *halakhah*, to require their employees, students, and congregants to be vaccinated against COVID-19. Legal counsel should be consulted to understand the secular law in this matter.**

**Question 3: What should be the guidelines for their distribution?**

Rabbi Daniel Nevins, “Triage and the Sanctity of Life” CJLS March, 2020

1. Who is in most immediate and grave danger?
2. Is one victim terminally ill? Jewish law differentiates between brief survival (*hayyei sha’ah*) and long-term recovery (*hayyei olam*), with a year of survival as the criterion.

Rabbi Elliot Dorff, “Triage in the Time of a Pandemic,” CJLS March, 2020

1. Treating people equally, either through “first come, first served” or through a lottery.
2. Favoring the worst-off on the basis of the “rule of rescue.”
3. Maximizing total benefits (utilitarianism), measured either by the number of lives saved or the number of life-years saved.
4. Promoting and rewarding social usefulness, based either on instrumental value for the future of the society or on reciprocity for past contributions, including those on the front lines of fighting COVID-19.

Talmud Bava Metzia 62a

(ויקרא כה, לו) וחי אחיך עמך אהדר ליה כי היכי דניחי ורבי יוחנן האי וחי אחיך עמך מאי עביד ליה מבעי ליה לכדתניא שנים שהיו מהלכין בדרך וביד אחד מהן קיתון של מים אם שותין שניהם מתים ואם שותה אחד מהן מגיע לישוב דרש בן פטורא מוטב שישתו שניהם וימותו ואל יראה אחד מהם במיתתו של חברו עד שבא ר' עקיבא ולימד וחי אחיך עמך חייך קודמים לחיי חבריך

Two people were walking along a deserted path, and in the hand of one of them was a jug of water. If both of them drink, they will both die [before reaching another source of water]. If one drinks, he will reach an inhabited place [and survive]. Ben Petora explained: "It is best that both drink and both die, so that one will not see the death of his friend. But then Rabbi Akiva taught: "Let him live by your side" (Lev. 25:36) – your life comes before the life of your companion.

*P'sak Din:*

- 5. Considering the ethical distribution of COVID-19 vaccines globally and nationally requires us to apply our Jewish moral principles of treating people equally, favoring the worse off, maximizing total societal benefit, and promoting social usefulness. *Dina d'malkhuta dina* requires us to accept the distribution priorities made by governments.**
- 6. Using personal connections, influence, or financial means to receive the COVID-19 sooner than our allotted time is forbidden.**