

# WORDS OF BALANCE

## Disclosure in Shidduchim



A booklet of piskei halacha from Dayan Ehrentreu zt"l,  
Rav Zimmerman and Rav Sprung of Rav Asher Weiss' Beis Din



# A BOOKLET OF PISKEI HALACHA

Reprinted with permission, these three halachic articles (written for different publications) provide a range of insights, sensitivities and halachos regarding the balance between Lashon Hara and disclosure in various aspects of Shidduchim. For the application on an individual case basis of anything in this booklet please consult your own Rov.

**The Clean Speech Project UK aims to refocus on the impact of speech, encouraging positive speech and avoiding negative speech. The Clean Speech Project UK is a partnership between Seed & GIFT, and runs syllabuses, parent-child learning and programmes across schools and communities. It is sponsored by the Wohl foundation.**

To find out more and see how you can get involved, visit [www.cleanspeech.co.uk](http://www.cleanspeech.co.uk)



# DISCLOSING INFORMATION DURING THE SHIDDUCH PROCESS

Dayan Chanoch Ehrentreu zt"l

*This article was originally published by Chana Charity Ltd in 2019, in a booklet for Rabbonim relating to genetics and shidduchim, and is reproduced here in full with permission from both Chana and Dayan Ehrentreu zt"l. Chana is available to discuss questions both directly in relation to this article and also regarding genetics and reproductive health in general, by contacting their helpline on 020 8201 5774 or emailing support@chana.org.uk.*

*contacting their helpline on 020 8201 5774 or emailing support@chana.org.uk.*

The issue of disclosure within the shidduch

process is of extreme importance to a Jewish marriage. In general, when someone is affected by a known medical condition that could potentially affect a person's decision to marry, this information must be disclosed to a potential shidduch. Without this, there may well be a serious question of *מקח טעות*. However, beyond the question

of whether or not to disclose information, there is also the question of how and when to disclose, where such disclosure is warranted. A medical condition may be only one factor among many in the decision-making process of a shidduch. It is equally important that a decision about whether or not to proceed with a shidduch

in the presence of a medical condition can be made within an appropriate context of also knowing about the person's many positive attributes.

With such questions, each situation

is unique, and it is therefore impossible to provide a general *פסק הלכה* that will be applicable in all situations, in a publication such as this. The following, however, are some general guidelines that should be borne in mind when dealing with these *שאלות*.

**A MEDICAL CONDITION MAY BE ONLY ONE FACTOR AMONG MANY IN THE DECISION-MAKING PROCESS OF A SHIDDUCH. IT IS EQUALLY IMPORTANT THAT A DECISION ABOUT WHETHER OR NOT TO PROCEED WITH A SHIDDUCH IN THE PRESENCE OF A MEDICAL CONDITION CAN BE MADE WITHIN AN APPROPRIATE CONTEXT OF ALSO KNOWING ABOUT THE PERSON'S MANY POSITIVE ATTRIBUTES.**



When someone has a medical condition that will need some management but will not have a direct impact upon the life of the couple, such as epilepsy that is being successfully kept under control with medication, there is no need to disclose this to the other side in advance of them meeting. However, after they have met for enough time for some chemistry to build between them – but before their connection becomes too serious – this information must be disclosed, so that they are free to make a decision about whether or not they want to go ahead with the shidduch, in the context of already knowing the other person to some extent.

When, however, there is a condition that will directly affect the couple's life together, such as a serious physical or mental health condition that compromises the person's daily functioning to some extent, this must be disclosed even before a first meeting takes place.

With regard to genetic conditions, someone can be a carrier of a genetic condition that does not, and never will, affect them directly, but will potentially affect any children they have. Since this can be dealt with through procedures such as PGD and the couple can otherwise enjoy a normal

marriage through the use of appropriate contraception, this would fall under the first category mentioned, of a condition that does not directly affect the life of the couple. As such, there is no need to disclose this before enough meetings have taken place for the prospective couple to begin to build a connection, at which point this information must be disclosed in full. That is to say, the nature of the condition must be fully explained and it also must be made clear to the prospective shidduch exactly what PGD would entail, since knowledge of these details could materially affect their decision as regards proceeding with the shidduch.

Another question relates to when someone has a genetic condition that may affect their life at some point in the future, for instance through an increased risk of cancer or some other disease, but that does not affect their life at all at this point in time. In such a case, the marriage such as it is will otherwise be normal, but may potentially be shortened as a result of a disease that is more likely than average to affect them in the future. This is a complex question, which involves many variables, such as: firstly, the level of risk of contracting a particular condition, as a result of this person's genetic disease. This will be

**AS SUCH, IT WILL BE APPRECIATED THAT EACH QUESTION IN THIS REGARD IS UNIQUE, AND ONE CANNOT ISSUE A GENERAL RULING. AS A GUIDE, HOWEVER, WHERE THERE IS A HIGH LEVEL OF RISK, WHICH IS ALSO ASSOCIATED WITH A POOR OUTCOME, SUCH INFORMATION MUST BE DISCLOSED IN ADVANCE OF THE COUPLE MEETING.**

unique to each individual, since even genetic diseases that are grouped under one general header, such as the BRCA gene (that is associated with an increased risk of breast cancer), may have different levels of risk depending on the specific variant of the gene involved. Secondly, there is the question of what exactly is the risk for – not all diseases are equal, and there is a difference between a fatal

disease and a non-fatal one. Thirdly, there is the question of whether it would be possible for the person to do anything in advance that would mitigate against the risk. For

instance, some diseases can be kept at bay through a healthy diet and regular exercise, or indeed through preventative surgery. As such, it will be appreciated that each question in this regard is unique, and one cannot issue a general ruling. As a guide, however, where there is a high level of risk, which is also associated with a poor outcome, such information must be disclosed in advance of the couple meeting. When there is a lower risk, or where preventative measures are likely to be helpful, the information need not be disclosed in advance but must be shared early on in the process, as discussed previously.

A related question to the above is in the opposite scenario, where someone has



already experienced a serious condition that has been successfully dealt with, but nevertheless may have implications for the future. For instance, someone who has in the past had a major depressive episode, or has successfully dealt with an eating disorder, may well be able to live a normal happy life from here on, but may also be at higher risk

than average of suffering a relapse in the future. In general, in such cases the information need not be disclosed in advance, but must be disclosed in the early stages of the shidduch.



# DISCLOSING INFORMATION DURING THE SHIDDUCH PROCESS

Rav Shraga Feivel Zimmerman – Compiled by Rabbi Binyomin Marks

The Gemoro in Pesochim (118a) observes that the Torah (*Shemos 22:30*) places the prohibition against talking and believing Loshon Horah adjacent to the positive mitzvah to throw carcasses to the dogs. The Gemoro comments that through this juxtaposition the Torah is indicating to us that someone who transgresses the prohibition of Loshon Horah is worthy of being 'thrown to the dogs'. The Maharal of Prague explains that the intention behind this comment of Chazal is to teach us that such a person is of a baser nature than this lowly animal. The Torah states that when Benei Yisroel left Mitzrayim, the dogs did not bark or bite, thus

**AT THE SAME TIME, THE TORAH INSTRUCTS US NOT TO STAND BY WHILE THE BLOOD OF ANOTHER IS SPILLED; LO SA'AMOD AL DAM REI'ECHO (VAYIKRO 19:16). DIRECTLY PRECEDING THIS, IN THE VERY SAME POSUK, THE TORAH WARNS US AGAINST GOSSIPING**

demonstrating their ability to suppress their basic instincts. In contrast, the person who speaks negatively about



his fellow demonstrates an inability to control his tongue.

At the same time, the Torah instructs us not to stand by while the blood of another is spilled; lo sa'amod al dam rei'echo (*Vayikro 19:16*). Directly preceding

this, in the very same posuk, the Torah warns us against gossiping – lo seilech rochil be'amecho. The Netziv comments that we see from the semichos haparshiyos that where knowledge of certain information is critical to ensuring that another does not suffer damage, not only does the isur not apply, but there is an obligation to reveal it to the one to whom it is relevant.

The balance of knowing when it is prohibited to reveal, and when it is an obligation to reveal, is a delicate matter. It is especially relevant when it comes to the arrangement of shidduchim. Should you reveal or not? Each scenario is different; however, we can lay down some general principles which are consistent and fundamental. In order to do this, we will discuss three categories of people involved in a shidduch.

## 1. The Family and the One Being Suggested

In a commerce setting, there are certain types of defects in purchased items which, when discovered, can be cause for a claim of mekach to'os, an invalid sale. The logic behind this is straightforward. If the buyer would have been aware of the defect, he would not have bought the item and can therefore expect his money back.

Similarly for a shidduch suggestion, there is an isur to conceal information regarding the 'merchandise', the boy or girl, lest there be a claim of mekach to'os. Therefore the family of the boy or girl,

or the one suggesting the shidduch, is obligated to reveal any significant issue of which they are aware.

Nonetheless, there is a fundamental difference between commerce and shidduchim. The Steipler<sup>1</sup> zt"l explains that if one buys an article – for example, a shirt – it is easy enough to find many such similar or even identical items on the market. There are rarely any factors that make any single shirt unique. Therefore, if one finds a flaw in a shirt, it can be exchanged for an unflawed shirt. This is in vast contrast to shidduchim, where

**EVERY PERSON IS UNIQUE IN HIS OR HER STRENGTHS AND WEAKNESSES. THERE CAN BE MANY REASONS TO THINK THAT A SHIDDUCH COULD BE A SUCCESSFUL MATCH, DESPITE A SPECIFIC SHORTCOMING OR PROBLEM.**

it is impossible to say that there is any 'item' which is identical to the next; every person is unique in his or her strengths and weaknesses. There can be many reasons to think that a shidduch

could be a successful match, despite a specific shortcoming or problem. The non-revelation of such an issue doesn't necessarily dictate that the shidduch is a mekach to'os because perhaps there are other strengths that the person has which could result in the shidduch being a success. Nor, for the same reason, is there an issue of geneivas da'as, deliberately misleading someone. Therefore, the guidelines of what must be revealed when it comes to shidduchim are not the same as those that apply in business.

When should a potential issue be brought to the attention of the other party? As a starting point, we can state: if an issue is of such significance that it is clear that it would cause the other

1 Sefer Kehilas Yaakov, Yevomos Siman 44

party to renege on the shidduch, this information must be revealed in advance. A less significant issue that will not definitively cause the cancellation of the shidduch after its conclusion could be revealed later on in the shidduch process.

It should be kept in mind, however, that the bond between husband and wife is built on a foundation of trust. If the concealing of negative information could result in an atmosphere of distrust from the outset of the marriage, it could be that the loss of concealing outweighs the gain.

If the decision is made to conceal the information initially, at what stage must it be revealed? There is no fixed answer to this, only that the information should be made known before any emotional connection is made between the boy and girl.

## 2. The Contacts

For those who receive requests for information about the boy or girl, whether

### **YET THE TORAH DOES NOT WANT US TO HIDE INFORMATION WHEN DOING SO COULD CAUSE HARM TO ANOTHER.**

they be friends, Rebbes or relatives, the most important thing to remember is – give praise where you can give praise! Praise given blandly or without feeling will have little impact, while a strongly positive answer will leave a good impression. Don't be negative where you don't have to be; try to be as positive as possible.

Yet the Torah does not want us to hide information when doing so could cause harm to another. The Rambam explains that the isur of lo sa'amod al dam rei'echo extends also to the property of others. How much more so must we not remain silent when this could lead to a boy or girl being led unwittingly into an unsuitable marriage.

The Chofetz Chayim<sup>2</sup> mentions three significant issues which must be revealed

in the shidduch process.

a) **Choli penimi**: certain illnesses or disabilities, whether physical or mental, that affect daily life and that any observer would not notice unless informed. Rav Elyashiv zt"l said that this is the case even when the condition can be controlled with medication. A past condition, however, does not need to be revealed, unless there is a realistic likelihood of recurrence. Some people have a weak constitution; this is not an illness and does not need to be mentioned. Allergies fall into a similar category, provided that it does not adversely affect the person's daily life.

The Gemoro tells us (*Yevomos 64b*) that one should avoid making a shidduch with families in which there is a pattern of illness (for example, epilepsy or leprosy). Clearly Chazal were aware of genetic diseases. There are varying opinions as to what determines that a family is a 'carrier' in halachic terms: Rav Elyashiv stated that the disease appearing twice within a family is enough reason to take caution, while the Steipler maintained that it is only after three occasions. The Chazon Ish zt"l was of the opinion that within one close family unit, two occasions is grounds for caution, and within a wider family group (for example, cousins), three. This information must be revealed.

Rav Moshe Feinstein<sup>3</sup> zt"l wrote that it must be revealed if a woman is unable to bear children, but not if she will have less

than another woman.

b) **Apikursus**: any serious concerns regarding religious opinions or beliefs or performance of mitzvos. The Minchas Yitzchok<sup>4</sup> writes that if a person transgressed a serious isur lehachis – a transgression as an act of rebellion – even if he transgressed only once, the other party must be informed. (This is in contrast to one who transgressed for the sake of pleasure or enjoyment). The sefer Marpeh Loshon clarifies that the definition of what is classified as a serious isur depends on the background of the person involved; what is considered serious for one may not be considered serious for another.

**THE CHOFETZ CHAYIM COMMENTED THAT UNFORTUNATELY, THERE ARE FAMILIES ABOUT WHOM IT IS PUBLIC KNOWLEDGE THAT THEY ARE UNRELIABLE AND UNTRUSTWORTHY. THIS IS A FACT THAT SHOULD NOT BE HIDDEN,**

c) **Pritzus**: concerns regarding immodesty or inappropriate behaviour. There is

an important distinction here between a boy and a girl. The history of a boy who was at one time involved in inappropriate behaviour need not be revealed. Such a background in a girl could have more serious ramifications, however, and must not be concealed.

Sometimes people say they are looking for a bochur who is a 'ben Torah'. It is important to keep in mind that this expression means different things to different people. Therefore the response should be tailored appropriately (*Chelkas Binyomin*). Hagaon Rav Yaakov Fisher zt"l would say that if the person is seeking a ben Torah just for the sake of image, that is, without a true appreciation for

2 At the end of Sefer Chofetz Chayim



3 Even Haezer, Cheilek 3, Siman 27

4 Cheilek 6, Siman 139 / 11

what this means, one does not have to be particular to give an accurate response.

The Chofetz Chayim commented that unfortunately, there are families about whom it is public knowledge that they are unreliable and untrustworthy. This is a fact that should not be hidden, due to the ramifications it can have in finalising a shidduch – unless the family making enquiries is equally dubious. So too with other such flaws. However, if one family is dishonest and the other suffers from a certain illness, as two separate issues each must be informed of the other.

Regarding all the above scenarios, one must keep in mind the four conditions that the Chofetz Chayim laid down in order to permit saying anything negative about another person:

1. The speaker must have personal knowledge of the information, and not second-hand information.
2. The speaker must not exaggerate the information in any way.
3. If the two sides have already reached an irrevocable decision, it is osur to relate the information.
4. The speaker must be motivated by a desire to assist and protect the other party from harm, and not because he harbours animosity towards the one he is speaking about.

The Chofetz Chayim added that where appropriate, one should not present the issue as fact but rather suggest that the party looks into the issue further.

Finally, with regard to honesty about the age of the boy or girl, Harav S Z Auerbach zt"l commented that there is no heter to mislead the other party, even if their age may prejudice them. On the other hand,



it is related in the name of the Chazon Ish and Harav Aharon Kotler zt"l that one may alter the age by one or two years, but no more. Harav B Zilber zt"l allowed the age to be misreported according to what is normally done in that particular place.

All the above applies not just when the families are looking into the shidduch, but even if they are already engaged to be married – the obligation of lo sa'amod al dam rei'echo still applies. This is with the caveat that there is a potential benefit to revealing the information; if for example, it could realistically cause one party to cancel the shidduch.

### 3. The Shadchan

The shadchan, matchmaker, has a different role entirely to those we have discussed so far. Being intimately involved with the progression of the shidduch, the shadchan will usually have the responsibility of passing messages and inquiries from one side to the other. Yet although the shadchan's input is invaluable, ultimately it is Hakodosh Boruch Hu who will decide whether the couple are truly destined for one another. The shadchan must realise that just as he/she will be rewarded for trying to make the shidduch a success, so too will he/she be rewarded for giving up when it is clearly not bashert.

The Chofetz Chayim pointed out that due to the facilitative role of the shadchan, he

or she is especially enjoined to be careful not to transgress the isur of lifnei iver lo sitein michshol – not to give bad advice based on their own preconceptions of what they believe the boy or girl should be looking for in a spouse.

It is important to be aware that this article deals with general principles. When faced with a specific situation, it is critical to consult with a talmid chochom for proper advice.

Finally, some chizuk to those who are experiencing difficulty in finding shidduchim for their own children. It may happen that such a person gets a phone call asking them to provide their opinion regarding another boy or girl, and in light of their personal challenges it may be a struggle to respond positively. However we should keep in mind that Shlomo Hamelech in his wisdom taught, 'tov ayin hu mevorach' – the one who can be positive about others and look for the success of another, will himself be blessed with success.

**SHLOMO HAMELECH IN HIS WISDOM TAUGHT, 'TOV AYIN HU MEVORACH' – THE ONE WHO CAN BE POSITIVE ABOUT OTHERS AND LOOK FOR THE SUCCESS OF ANOTHER, WILL HIMSELF BE BLESSED WITH SUCCESS.**



## A THIRD PARTY'S OBLIGATION TO DISCLOSE MEDICAL INFORMATION IN SHIDUCHIM

Rav Yossi Sprung Rosh Kolel of Rav Osher Weiss's Beis Medrash Gohova for Medical Halacha: [medicalhalacha.org](http://medicalhalacha.org)

Those who are considering marriage usually research potential spouses carefully. Health and medical information is generally considered critical, but that is often confidential and not apparent unless it is intentionally disclosed. If this information is not openly shared by the affected party, many turn to family members or other parties to investigate.

As a general rule, a person with a significant illness is obligated by Torah law to inform a potential spouse of his condition. He may not hide this information and deceive the other side into making a decision without thorough knowledge of the facts.

Disclosing sensitive information relating to a Shiduch is a matter of discussion among the Poskim. Is it forbidden or permitted to divulge information? If it is permitted, how much should be revealed and how should one reveal it? The Chafetz Chaim (*Klal 9*) discusses this topic at length.

He rules that where the potential spouse would certainly not agree to the Shiduch if they would be aware of the sensitive information, one is obligated to inform him. This falls under the obligation to warn a person who is being cheated or deceived in order to protect him from loss. This Halacha is codified by the Rambam (*Hilchos Rotzeach 1:14*):



Anybody who is able to save [somebody] but does not save [him] transgresses [the sin of] "do not stand by the blood of your friend" ("Lo Sa'amod Al Dam Rei'echa"). Similarly, somebody who sees his friend drowning in the river, or that bandits are assailing him, or that a wild animal is attacking him, and he is able to save him, either [by intervening] directly or by hiring others to save him, and he does not save [him]. Or if he heard idol worshippers or informers plotting evil against him, or preparing a trap for him, and he does not tell his friend of this and inform him [of the danger]. Or if he knows of an idol worshipper or aggressor who are assailing his friend, and he would be able to appease them on behalf of his friend and calm them down. [In all of these cases] and in any similar cases, the person who acts in this way, transgresses the sin of "Lo Sa'amod Al Dam Rei'echa". [1]



**THE POSKIM ADD THAT ONE SHOULD ALSO ACT WITH GREAT SENSITIVITY, FIRST ATTEMPTING TO CONVINCE THE AFFECTED PERSON TO DISCLOSE HIS ILLNESS TO THE OTHER SIDE.**

However, one may only reveal this information if a number of conditions are met:

1. The information must be certain and not based on hearsay or rumors.
2. The illness is significant and not merely a weakness or minor complaint that would not prevent the person from living a regular life.
3. The illness must be described accurately without exaggeration.
4. The intent is solely to assist the potential spouse and not due to dislike or hatred of the other party.
5. The disclosure is certain to be beneficial – in other words, it won't be ignored.

6. The Shiduch has not yet been settled. If it has been settled, it is forbidden to mention anything at all.

These are the conditions mentioned by the Chafetz Chaim. The Poskim add that one should also act with great sensitivity, first attempting to convince the affected person to disclose his illness to the other side. If that isn't successful, it is preferable to hint to the interested party that there is a medical issue without spelling it out explicitly, and he can then choose to investigate further on his own.



# A DOCTOR'S RESPONSIBILITY TO DISCLOSE MEDICAL INFORMATION IN SHIDUCHIM

Rav Yossi Sprung, Rosh Kolel of Rav Osher Weiss's Beis Medrash  
Govoha for Medical Halacha: [medicalhalacha.org](http://medicalhalacha.org)

**This essay will focus on a delicate question – how should a doctor conduct themselves when questioned about a potential spouse's state of health? If the doctor is aware of a significant medical issue, how should they proceed?**

This question, though it pertains to anybody who is asked to divulge information, is particularly vexing for physicians and other medical professionals. One of the most basic ethical obligations of a doctor is to keep a patient's medical information confidential. This obligation is enshrined both in the Torah and secular law. Abrogating this law is a serious matter and is, according to the Israeli government's Physicians' Ordinance (Pekudas haRofim), grounds for revoking the license of the perpetrator[2]. Is a doctor expected to violate his duty of confidentiality, perhaps even at the risk of losing his license and thereby his income?

Aside from the basic obligation to respect a patient's rights, the guarantee of confidentiality breeds trust between a doctor and his patients, which is exceptionally important. It is vital that a patient feels that he is able to relate all of his medical concerns to his doctor without concern that the information will be revealed to others.

On the other hand, a doctor may become aware that his patient is withholding his medical information from other parties to whom it may be damaging. If that is the case, would he be obligated to inform those parties of the information or acquiesce to their request to disclose

the information?

The Chelkas Ya'akov (Shu"t E.H. 79) discusses a case of a doctor who was treating a soon-to-be-married young man with a malignant disease that he believed would take his life within a year or two. The Chelkas Ya'akov ruled that the doctor was obligated to inform the fiancée or her family of the disease, else he would transgress Lo Sa'amod Al Dam Rei'echa, as delineated by the Rambam above.



The Chelkas Ya'akov proceeds to explain that this is precisely the sort of case that is alluded to by the Rambam who wrote "[In all these cases] and in any similar cases, the person who acts in this way, transgresses the sin of "Lo Sa'amod Al Dam Rei'echa." "Similar cases", maintains the Chelkas Ya'akov, are those where the damage to the other party will occur incidentally without malicious intent, such as the case of the young man who only wished to be married, not to cause his future wife any harm. In spite of this, one must inform the party that may be harmed, or one stands in contravention of Lo Sa'amod Al Dam Rei'echa.

A similar ruling was given by the Tzitz Eliezer (16:4) regarding a woman who had undergone surgery and was unable to bear children. She asked her doctor to refrain from revealing this to her future husband. The Tzitz Eliezer ruled that it was forbidden for the doctor to comply and that, in fact, he was obligated to make contact with the future husband even if he did not inquire of him.

However, Rav Yitzchak Zilberstein Shlit"a, raises the issue of erosion of trust between patient and doctor as mentioned previously. He cites doctors who expressed concerns that if they were to disclose their patients' medical information, their patients would lose all trust in them. Furthermore, this could even lead to situations of Pikuach Nefesh if patients would withhold information from their physicians and would therefore

receive incorrect or even harmful treatment.

Therefore, in the event that a doctor is questioned regarding a patient's state of health, the correct approach is for him to say "I cannot disclose any information without the patient's consent." In doing so, he implies that there may be important information to disclose (thus avoiding transgressing "Lo Sa'amod Al

Dam Rei'echa") but does not reveal anything, thus respecting the patient's right to confidentiality.

The Chafetz Chaim (B'eir Mayim Chayim, Issurei Rechilus 9, Case 2) makes a similar suggestion,

advising that a person say, "I don't know what to advise you as I am not entirely familiar with his situation."

Rav Moshe Shternbuch Shlit"a (Teshuvos v'Hanhagos 1:879) rules that a doctor may avoid even implying that a person has any medical issue, as long as he doesn't say anything untruthful. He recommends that he say, "As a physician, I am bound by confidentiality and it is forbidden for me to disclose the state of health of my patients as they revealed [their concerns] to me and paid my fees on the condition of privacy."

The Nishmas Avraham (Chelek Even haEzer, Siman 2 Note 6 – 2nd edition) cites a fascinating ruling from Rav Shlomo Zalman Auerbach zt"l in this regard. Rav Shlomo Zalman noted that in a case where somebody is aware

**ON THE OTHER HAND, A DOCTOR MAY BECOME AWARE THAT HIS PATIENT IS WITHHOLDING HIS MEDICAL INFORMATION FROM OTHER PARTIES TO WHOM IT MAY BE DAMAGING. IF THAT IS THE CASE, WOULD HE BE OBLIGATED TO INFORM THOSE PARTIES OF THE INFORMATION OR ACQUIESCE TO THEIR REQUEST TO DISCLOSE THE INFORMATION?**

that another person is a heretic or licentious, the Chafetz Chaim ruled unequivocally that, "one is obligated to reveal it". However, regarding illness he wrote merely that "one should reveal it" and that "a person who discloses [the information] has not transgressed the prohibition of Rechilus". This implies that it is merely permitted to disclose the information, not that there is any formal obligation to do so.

According to the Nishmas Avraham, this ruling sheds light on our question of whether a doctor is obligated to risk his license by disclosing information. Since, according to Rav Shlomo Zalman, there is no obligation to disclose the information, one would, of course, not be expected to risk his livelihood.

However, it is unclear whether Rav Shlomo Zalman's ruling was given as an answer to a specific question that had been posed to him or merely as a hypothetical matter[3]. Furthermore, the



distinction between matters of Apikorsus and significant illnesses is unclear for they would surely both cause great harm to a spouse. Moreover, the Tzitz Eliezer (16:4) disagrees with the proof drawn from the wording of the Chafetz Chaim, arguing that the reason that he wrote that "a person who discloses [the information] has not transgressed the prohibition of Rechilus" is because in that chapter he was only discussing the Halachos of Rechilus. He did not mean to imply that there is no obligation to reveal the information to avoid transgressing the prohibition of Lo Sa'amod Al Dam Rei'echa.

The Poskim do not explicitly discuss our question of whether a doctor must risk his livelihood by disclosing confidential information in order to prevent harm to another party.

According to the majority of the Poskim, a person must spend all of his money, if necessary, to avoid transgressing Lo Sa'amod Al Dam Rei'echa. However, this is only true when attempting to save someone from death or serious injury. When the issue is merely prevention of some sort of damage (for example,

refusing to testify in Beis Din and thereby causing a monetary loss to one of the litigants), he would not be obligated to the same extent[4].

**THE POSKIM DO NOT EXPLICITLY DISCUSS OUR QUESTION OF WHETHER A DOCTOR MUST RISK HIS LIVELIHOOD BY DISCLOSING CONFIDENTIAL INFORMATION IN ORDER TO PREVENT HARM TO ANOTHER PARTY.**

In the majority of cases, refraining from revealing medical information to a potential spouse, while causing untold harm to their quality of life[5], does not lead to a state of Pikuach Nefesh. However, the loss of a medical license is extremely damaging, as it leads to the loss of professional status, career, and income. HaGaon Rav Asher Weiss Shlit"a often says that a loss of livelihood should be treated almost as if it is Pikuach Nefesh. Therefore, there are grounds to be lenient and allow a doctor to refrain from revealing medical information for a Shiduch.

In answer to our specific questions on this topic, Rav Asher answered as follows:

1. Medical confidentiality is exceedingly important. Without it there is a clear danger that patients would not turn to doctors in fear that their secrets would be revealed. Therefore, a doctor should refrain from revealing medical information in all circumstances, including when he is asked questions regarding a Shiduch, unless the patient has expressly consented to the release of information.
2. One should treat the risk of losing a license to practice medicine very

seriously.

3. If a doctor is asked about somebody for Shiduch purposes, he should reply that he is forbidden by law from revealing any information about any of his patients.
4. He must even refrain from intimating that there is anything about which to be concerned.
5. If the Shiduch is for a member of his family, he may invoke the rule of "and from one's flesh one shouldn't conceal oneself" (in other words, one must assist one's family above others) and should advise them not to proceed with the Shiduch without specifying the reason.

[1] For additional sources, see Pischei Teshuva, O.C. 156 and Tzitz Eliezer (16:4).

[2] In Israel, according to Clause 41 of the Physicians' Ordinance (the new version, 1976), the health minister has the power to revoke or suspend the license of a doctor for various misdemeanors, including infringing upon a patient's rights. Clause 19 of "Patients' Rights" forbids a doctor from disclosing any medical information, except in specific circumstances.

[3] "Lehalacha v'Lo l'Maaseh"

[4] We find a similar notion in the Halachos of Hashavas Aveida – one is not obligated to spend his own money in order to save his friend's object. The Torah does not impose financial responsibility upon one person to save someone else from monetary loss. See Sanhedrin 73a.

[5] Such as early widowhood, vast medical expenses, or childlessness.



RESOURCES



SCHOOL SYLLABUSES



STARTING 21<sup>ST</sup> MAY

# THE CLEAN SPEECH PROJECT UK

Enhancing The Way We Communicate



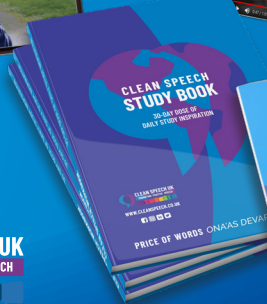
CONTENT



SOCIAL MEDIA



COMMUNITY



[www.cleanspeech.co.uk](http://www.cleanspeech.co.uk)

Clean Speech UK is a collaborative project of GIFT and Seed promoting positive speech, through the lens of Jewish wisdom.

