“Permission Given to a Doctor to Heal” – Across the Generations and in the Thought of Rav Avraham Yitzchak Ha-Kohen Kook

Rabbi Dr. Benjamin Gesundheit, MD PhD

Rav Acha said: When going in for blood-letting one should say: “May it be Your will, O Lord, my God, that this operation may be a cure for me, and may You heal me, for You are a faithful healing God, and Your healing is true, since men have no power to heal, but this is the common practice.” Abaye said: A man should not speak in this manner, for it was taught in the school of Rabbi Yishmael: [It is written:] “He shall cause him to be thoroughly healed (ve-rapo yerape)” (Exodus 21:19). From here

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1 * This article appeared in Hebrew as “Ha-Ra’ayah Kook al Reshut le-Rofe le-Rapot,” in Netu’im 10 (5763), pp. 79-96. See also www.jewishmedicalethics.org.

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we learn that permission was given to a doctor to heal. When he gets up [after blood-letting] what does he say? Rav Acha said: Blessed be He who heals without payment. (*Berakhot* 60a)

**Introduction**

Many explanations have been offered for the aforementioned statement of Rabbi Yishmael. In his explanation of this short passage, Rav Avraham Yitzchak HaKohen Kook combines the interpretations of earlier commentators, Rabbi Yishmael’s teachings recorded elsewhere in the Talmud, and important lessons regarding the challenges facing modern medicine.

In this article we shall analyze Rabbi Yishmael’s words on several planes. Following a brief historical survey regarding the philosophical significance of the permission granted to a doctor to intervene in the treatment of a patient (I), we shall present the interpretations of Exodus 21:19 upon which Rabbi Yishmael’s statement is based, and discuss his interpretation of Exodus 15:26, according to the plain sense of the verse (II). We shall then explain the approaches of four medieval exegetes to “the permission given to a doctor to heal” against the biographical and cultural backgrounds of these scholars (III) as a basis for understanding R. Kook’s comments on the issue (IV). And finally we shall discuss the novelty found in this explanation, which, in our opinion, adds important and original insights regarding the permission – and duty – given to a doctor to heal in our time (V).
I. The philosophical background of “I am the Lord that heals You” and “permission given to a doctor to heal”

The specific issue of “permission given to a doctor to heal” is based on a fundamental question in the philosophy of religion regarding the relationship between Divine providence, on the one hand, and human action, on the other: Is man permitted or even obligated to intervene in his Creator’s governance of the world? In this introduction, we wish to offer a brief historical survey that will help us understand the issue of “permission given to a doctor to heal.”

Scripture emphasizes man’s responsibility based on the free will granted to him. Human action and Divine providence are not contradictory, but rather complementary. Man is endowed with free will and it is incumbent upon him to choose good (Deuteronomy 30:16-19). He is forbidden, however, to rely exclusively on his own efforts and glory in his own power and might, but rather he must trust in God and cast his burden upon Him.

Based on this conceptual foundation, we shall try to

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2 This issue was discussed at length in both Jewish and general philosophy, and this is not the forum to present all the views on this fundamental issue. See for our purposes: E.E. Urbach, Chazal – Pirkei Emunot ve-De’ot, Jerusalem 5743, pp. 254-277, and especially pp. 258-239 concerning Rabbi Yishmael; A. Steinberg, “Tórat ha-Mussar ha-Yehudi,” Encyclopedia Hilkhatit Refu’it, VI, Jerusalem 5759, pp. 624-645; M. Eliade, “Healing,” Encyclopedia of Religion, New York 1987, VI, pp. 226-234; “Medicine,” IX, pp. 305-324.

3 See the comparative literature on this issue in Y. Yakobowitz, Ha-Refu’ah ve-ha-Yahadut, Jerusalem 5739, pp. 247-251. See also: A. Steinberg (above, note 1); idem, “Tórat ha-Mussar ha-Kelalit (above, note 1), VI, pp. 646-688.

4 See Deuteronomy 8:17: “And you shall say in your heart, My power and the might of my hand have gotten me this wealth.”

5 See Psalms 55:23: “Cast your burden upon the Lord, and He shall sustain you; He shall never suffer the righteous to be moved.” See the discussion below regarding the views of Rashi and Tosafot.
define the relationship between two verses that upon first glance appear to contradict each other: “For I am the Lord that heals you” (Exodus 15:26) and “he shall cause him to be thoroughly healed” (Exodus 21:19). According to Scripture’s outlook that finds expression in the verse, “he shall cause him to be thoroughly healed,” it is precisely the physician who is responsible for treating the sick. As opposed to other cultures in which religious figures served as healers, Scripture distinguishes between these functions. The priests are in charge of teaching what is permitted and what is forbidden, what is ritually clean and what is ritually unclean (Leviticus 11-15), but the religious outlook of the priests does not decide or even involve itself in the medical treatment of the sick.6

In Egypt, in contrast, it was widely believed that healing is in the hands of the gods. The Egyptian physician-god Imhotep (2645-2663 B.C.E.) exemplifies the cult of the physician-God, and this belief, which dates back to the beginning of the history of medicine, was also widespread during Egypt’s Hellenistic period. This background may help us understand why Egypt is mentioned in Exodus 15:26: “I will put none of these diseases upon you, which I have brought upon Egypt, for I am the Lord that heals you.”7

The attitude toward medicine and the physician found in the book of Ben Sira (beginning of the second century, B.C.E.) is similar to that of his rabbinic contemporaries. Ben Sira respects the doctor’s work, but at the same time

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insists that we relate to medicine and human doctors based on faith in God, Healer of all flesh.\footnote{Ben Sira 38, 1-15 (ed. M.Tz. Segel, Jerusalem 5719, pp. 242-243). For an analysis of this passage, see H. Stadelmann, Ben Sira als Schriftgelehrter, Tübingen 1980, pp. 138-145.}

The Mishnah records a fundamental principle relating to this matter in the name of Rabbi Akiva: “Everything is foreseen [by God], yet freedom [literally, permission] is given; and the world is judged with good, yet all is according to the amount of actions” (\textit{Pirkei Avot} 3:15). This is similar in formulation to Rabbi Yishmael’s statement: “From here we learn that permission has been given to a doctor to heal.”\footnote{The view of the Sages stands in contrast to the Christian view which sees faith as the only avenue toward healing. The Christian view characterized medical knowledge throughout the Middle Ages and delayed the development of medical research in the modern period as well. See: Matthew 4:23-25; 5:1-20; 10:1-8; 11:4-5; Epistle to the Corinthians 1:11, 29-30; and elsewhere. For an interpretation of these sources, see H. Strack & P. Billerbeck, \textit{Kommentar zum Neuen Testament aus Talmud und Midrasch}, München 1922-1928. See also: A. Harnack, \textit{Medizinisches aus der Kirchengeschichte}, Leipzig 1902, p. 96ff; C. Arturo, \textit{A History of Medicine}, New York 1947, p. 242ff.}

Maimonides, who was also a doctor,\footnote{See F. Rosner & S. Kottek, \textit{Moses Maimonides – Physician, Scientist and Philosopher}, London-New York, Aronson 1993.} relates to the obligation falling upon man to seek healing, similar to his duty to eat, arguing that this does not attest to a lack of faith in God, as is claimed by fools, for surely:

\begin{quote}
According to their faulty and foolish imagination, if a person is hungry and he turns to bread and eats it, undoubtedly relieving himself from that great distress, would we say that he has removed his trust from God? Fools, say to them, just as I thank God at mealtimes for providing me with something to
\end{quote}
remove my hunger and maintain me, so too we should thank Him for providing a cure that heals my illness when I use it.\textsuperscript{11}

Rav Chayyim Yosef David Azulai (Chida) writes in similar fashion:

It seems that nowadays one should not rely on a miracle. A person who is sick must conduct himself in accordance with the way of the world to call a doctor who will heal him. He must not veer from the way of the world and assert that he is greater than the saints of [previous] generations who healed themselves by way of doctors. This borders on [the violation of] a prohibition, whether because of boasting, or because of relying on a miracle in a place of danger... Rather he should conduct himself in the normal manner of people and seek healing from a doctor. (\textit{Birkei Yosef}, \textit{Yoreh De'ah}, 336, 2)

In light of this short survey, we wish to evaluate the position of Judaism across the generations regarding the status of a physician, and especially the various understandings of Rabbi Yishmael’s statement regarding the permission granted to a doctor to heal, both in the context of Jewish thought and in comparison to the general culture of the time. This will provide us with a wider context within which to examine the approach of R. Kook.

\textsuperscript{11} Commentary to the Mishnah, \textit{Pesachim} 4:10 (ed. R. Kafih, p. 113).
II. The biblical sources: “I am the Lord that Heals You” - “He shall cause him to be thoroughly healed”

“If you will diligently hearken to the voice of the Lord your God, and will do that which is right in His sight, and will give ear to His commandments, and keep all His statutes, I will put none of these diseases upon you, which I have brought upon Egypt, for I am the Lord that heals you” (Exodus 15:26). This verse deals with God’s providence and the people of Israel’s obligation to keep His commandments. According to the plain sense of Scripture, healing constitutes heavenly reward for observance of the commandments, and in this context there doesn’t seem to be any room for human healing – “What part do the physicians have in the house of those who do the will of God, for when a man’s ways please the Lord, he need have no concern with physicians.”

“And if men strive together, and one smite another with a stone... and he die not, but keeps his bed: ... only he shall pay for the loss of his time, and shall cause him to be thoroughly healed” (Exodus 21:18-19). This verse establishes the injuring party’s legal obligation to compensate the victim and pay him for all the damage that he caused him, including his medical bills. The Torah assumes the existence of a human doctor, and even respects his role in

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12 Similar verses: “See now that I, even I, am He, and there is no god with me: I kill, and make alive; I wound, and heal: neither is there any that can deliver out of My hand” (Deuteronomy 32:39); “Who forgives all your iniquities; who heals all your diseases; who redeems your life from the pit; who encircles you with love and compassion” (Psalms 103:3-4); “The Lord builds Jerusalem; He gathers together the outcasts of Israel. He heals the brokenhearted, and binds up their wounds” (ibid. 147:2-3).

13 The formulation of Nachmanides in his commentary to Leviticus 26:11; see below a detailed discussion of Nachmanides’ position.
Verapo Yerape

The principle arising from the verse, “He shall cause him to be thoroughly healed,” seems to contradict the verse, “For I am the Lord that heals you.” Our commentators dealt with this contradiction and viewed the relationship between the two passages as a combination of Divine and human healing, or as a contradiction that can be resolved by dividing medicine into different realms.

According to the first approach, the two verses complement each other: Even though only God is “a faithful Healer whose healing is true,” a human doctor was also granted permission – and this involves also a duty - to heal. Only God is the Healer of all flesh, but through his actions, man completes the will of the Creator. According to this, man must strive to effect healing, but at the same time he must know that God is the actual source of all healing.

The biblical commentators found subtle linguistic allusions to reconcile the apparent contradiction: Exodus 15 speaks of God as healer in the kal conjugation – “I am the Lord that heals you (rof’ekha).” In contrast, the human healing in Exodus 21 is formulated in the pi’el conjugation: “He shall cause him to be thoroughly healed” (ve-rapo yerape):

All human healing in Scripture is found with a dagesh.

14 Ba’al ha-Turim explains what is stated: “Only he shall pay for the loss of his time, and shall cause him to be thoroughly healed” – “to exclude the case where he disregarded the words of the doctor.” According to this, the Torah conditions the victim’s right to compensation on his turning to professional medical treatment. If the victim refuses to receive treatment, he loses his right to sue for damages. See also Preuss (above, note 6), p. 28ff.

15 Following the Gemara in Berakhot 60a, which combines turning to a human doctor with prayer to God.

16 Following the view of Nachmanides brought in Shulchan Arukh, Yoreh De’ah 336:1. See below, note 40 and discussion there.
Thus: “We would have healed (ripinu) Bavel, but she was not healed” (Jeremiah 51:9). But [the healing] of the Holy One, blessed be He, is found without a dagesh. This is what it says: “Heal me (refàéni), O Lord, and I shall be healed” (Jeremiah 17:14), and it is written: “He heals (ha-rofe) the brokenhearted” (Psalms 147:3), “I will heal (erpa) their backsliding” (Hosea 14:5), “And God healed (vayirpa) Avimelekh” (Genesis 20:17), “For I am the Lord that heals you (rof’ekha)” (Exodus 15:26). The reason for this is that human healing is only achieved through pain and effort, the person having to suffer the medicine or bitter drink. But the healing of the Holy One, blessed be He, is achieved with ease – there is no pain at all, because “the blessing of the Lord, it makes rich, and He adds no sorrow with it” (Proverbs 10:22). (Rabbenu Bachya, Exodus 21:19)17

According to this approach, we can add two more differences between the two verses: God is a “healer” (rof’ekha, a noun), as opposed to man who merely strives to heal, “He shall cause him to be thoroughly healed” (ve-rapo yerape, a verb). The doubling of the verb emphasizes the effort that is necessary in order for a human doctor to effect healing.18

According to the second approach, there is indeed a contradiction between the two passages, but there are areas where healing can only be achieved by God, and other ar-

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17 This approach is also found in the commentary of Baal ha-Turim to Exodus 15:26, and in the commentary of R. Avraham Ibn Ezra to Exodus 21:26.

18 Similar to the Sages’ exposition found elsewhere: “‘You shall surely restore them (hashev tashivem)’ – if he returned it and it ran away, returned it and it ran away, even four or five times, he is still bound to restore it”; and others.
eas where human healing is possible. Nachmanides explains the contradiction between the two passages by distinguishing between God’s governance by way of miracles and His governance in accordance with the laws of nature. Other commentators see the two verses as referring to different areas of medicine, and it is reasonable to assume that they were influenced by the spirit of their times: “As a sign that He granted doctors permission to heal external injuries and wounds. But all internal disease is in the hand of God to heal” (R. Avraham Ibn Ezra, Exodus 21:19).

There is then a distinction between the healing of external wounds (surgery), which is permitted to human doctors (Exodus 21), and the healing of internal diseases, which is given over to God alone (Exodus 15). This distinction already appears in tractate Avodah Zarah (28a) and in the words of the Posekim, in accordance with the perception of medicine in the eyes of the generation of Ibn Ezra and Rabbenu Bachya, who related to surgery as an autonomous discipline. The distinction between general medicine (rofe in rabbinic Hebrew) and surgery (rofe uman, like uman as a designation for a circumciser or a

19 See below for a lengthy discussion of his position in his Torat ha-Adam and in his Commentary to the Torah.

20 (Ed. Weiser, p. 150). And so too writes R. Avraham Ibn Ezra in his commentary to Psalms 32:10: “Many are the sorrows of the wicked: but he that trusts in the Lord shall be surrounded by love” – “Rabbi Moshe said: . . . ‘He that trusts in the Lord’ refers to one who does not rely on doctors, as did Asa. Know that Scripture only permits medical treatment in the case of a wound inflicted by man, because God alone is the healer of Israel, and His healing comes to strengthen his soul and increase his fear.” See also Rabbenu Bachya on Exodus 21:19: “And that which our Sages, of blessed memory, said: ‘“He shall cause him to be thoroughly healed” (Exodus 21:19). From here we learn that permission was given to a doctor to heal – this refers exclusively to an external wound about which the verse speaks, but an internal illness depends not on a doctor, but on the Healer of all flesh in whose hand is the soul of every living thing (Job 12:10).”

21 See Tur, Orach Chayyim 328, and Bet Yosef, ad loc.
bloodletter) resolves the contradiction between various biblical and talmudic sources, and it has practical halakhic ramifications.\(^{22}\) It is interesting to note that this distinction was proposed by rabbinic authors who also engaged in medicine: R. Avraham Ibn Ezra\(^{23}\) and R. Shimon ben Tzemach Duran.

The Malbim and R. Samson Raphael Hirsch resolve the contradiction between the two verses in a different manner:

Because I am the Lord that heals you this will be a cure for illnesses of the soul… And so too the commandments that God commanded us are not for His sake, but rather for our sake to cure the illnesses of our souls. (Malbim, Exodus 15:26)

The word “machalah” is used not only of bodily illness, but also of any hindrance to well being, of the mind, as in “There is none of you who worries about me” (I Samuel 22:8), of general existence, as in “And the inhabitant shall not say, I am sick” (Isaiah 33:24)…

God says: The keeping of My laws protects you from such sufferings which otherwise I would have to use to educate you… (R. S.R. Hirsch, Exodus 15:26).

According to these two nineteenth-century commentators, the Torah distinguishes between bodily illness that can be healed even by human beings (Exodus 21), and illness

\(^{22}\) Responsa Tashbetz, III, no. 82, distinguishes between these two types of treatment regarding liability for damages in the case of an error. See also Kereti u-Peleti, Yoreh De'ah 188, 5, who agrees with this distinction. See also Responsa Tzitz Eli’ezar, V, Kuntrus Ramat Rachel, nos. 20-23.

of the mind, whose cure is found exclusively in the hands of God (Exodus 15). This distinction also accords with the understanding of medicine in the days of the Malbim and R. Hirsch, when psychiatry and psychology were developing as new and independent disciplines. According to the modern understanding, the role of medicine is not only to treat illness, but also to prevent sickness and to preserve proper physical and mental balance.25

**In conclusion:** The verse, “He shall cause him to be thoroughly healed” (Exodus 21), implies that the practice of medicine and turning to doctors is obligatory. On the other hand, the verse, “I am the Lord that heals you” (Exodus 15), emphasizes that a human doctor serves merely as the agent of the Healer of all flesh. A doctor must fulfill the commandments of God, and one must not rely exclusively on his cures.26 Already in Scripture then we find a certain contradiction between the two approaches, for which the commentators proposed several resolutions, as is summarized in the following table:

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25 See the definition of “health” proposed by the World Health Organization that parallels this expansion: “A state of complete physical, mental and social well-being and not merely the absence of disease” (1948) and it has to take into account “the extent to which an individual or a group is able to realize aspirations and satisfy needs, and to change or cope with the environment” (1984); see below text at note 53 for a discussion of this definition in the words of R. Kook.

26 As a typical example of this approach, it is related in II Chronicles 16:12 about King Asa, who engaged exclusively in the approach of “and he shall cause him to be thoroughly healed,” negating entirely the idea of “for I am the Lord that heals you”: “And Asa in the thirty-ninth year of his reign was diseased in his feet, until his disease became severe: yet in his disease he did not seek the Lord, but the physicians.” It stands to reason that the name “Asa” – “doctor” in Aramaic - alludes to this: he sought only the doctors – “for as his name is, so is he” (I Samuel 25:25). Interpretations of names is characteristic of the book of Chronicles, e.g. the names of Shelomo (II Chronicles 22:9); Yehoshafat (II Chronicles 11:4-10), Chizkiyahu (II Chronicles 29:4,31; 31:4; 32:5,7), and others.
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<th>Exodus 15:26</th>
<th>Exodus 21:18</th>
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<td>“If you will diligently hearken to the voice of the Lord your God, and will do that which is right in His sight, and will give ear to His commandments, and keep all His statutes, I will put none of these diseases upon you, which I have brought upon Egypt, for I am the Lord that heals you.”</td>
<td>“If he rise again, and walk abroad upon his staff, then shall he that struck him be acquitted; only he shall pay for the loss of his time, and shall cause him to be thoroughly healed.”</td>
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**The context:**  
The obligation to obey God’s commandments and to act in accordance with what is right in His sight. As a reward, man is promised good health by the Healer of all flesh.  

In the practical context of *Parashat Mishpatim*, the Torah demands appropriate compensation for an injured party, including medical treatment provided by a human doctor.

<table>
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<tr>
<th>a. Complementary relationship</th>
<th>but in practice, human doctors provide medical treatment to the sick who appear before them.</th>
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| **Linguistic support:**      | Man heals with great effort – the *pi’el* conjugation (Ibn Ezra, Rabbenu Bachya, Tur)  
                              | Man makes great efforts to heal (verb, doubled verb) |
| God heals with ease – the *kal* conjugation. |                                                                                        |
| God is a healer (a noun)     |                                                                                        |

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<th>b. Contradiction between different realms</th>
<th>whereas other healing was given over to human doctors.</th>
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<td>Some healing is only in the hands of God,</td>
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<td>God’s miraculous governance when Israel “does the will of God”</td>
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<th>Internal medicine</th>
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<tr>
<td>Healing of the soul</td>
<td>Healing of the body (Malbim, R. S.R. Hirsch)</td>
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III. “Permission granted to A doctor to Heal” – according to the Rishonim

According to Rabbi Yishmael, the verse, “He shall cause him to be thoroughly healed,” comes to negate the view that forbids the practice of medicine and to grant a doctor permission to heal. This “permission” has great halakhic significance regarding a doctor’s liability, for in the absence of such permission, a doctor would be liable for any damage that he causes his patient, as is stated explicitly in the Tosefta: “If a professional doctor treated [a patient] with the permission of the court, and caused him damage – inadvertently, he is exempt; intentionally, he is liable, for the sake of public welfare.”

Rabbi Yishmael relates primarily to the moral dimension of “permission granted to a doctor to heal,” whereas the Tosefta emphasizes the practical, halakhic dimension of a doctor who treated a patient with the permission of the court and caused him damage,” but it is possible that these sources are interconnected, as we shall see below.

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27 For a clarification of the views of the Rishonim regarding the words of Rabbi Yishmael, see R. Y.M. Lau, Responsa Yachel Yisra’el, II, Jerusalem 5754, pp. 310-342; A. Steinberg, “Rofe” (above, note 1), VI, pp. 160-168; idem., “Refu’ah” (above, note 1), VI, pp. 178-240.

28 Tosefta, Gittin 3:8, ed. Lieberman, p. 257. See also Tosefta, Bava Kama 9:11, ed. Lieberman, p. 44: “A qualified doctor who treated [a patient] with permission of the court, and caused [him] damage, is exempt; if he injured him more than is appropriate, he is liable” (Tosefta, Bava Kama 9:3). For additional sources, see: Tosefta, Bava Kama 6:17, ed. Lieberman, p. 24; Tosefta, Makkot 2:5, ed. Zuckermandel, p. 439. See the detailed halakhic discussion of A. Steinberg, “Rofe” (above, note 1), pp. 68-122. It should be noted that the Talmud is the earliest source in the history of medicine containing detailed discussions of a doctor’s liability based on his professional training. For a historical survey, see, H.E. Sigerist, “The History of Medical Licensure,” Journal of the American Medical Association, 14 (1935), p. 1057ff.

29 For a halakhic discussion of the relationship between the two sources and these two areas, see Responsa ha-Tashbetz, III, no. 82.

30 See below discussion in text at note 61.
It should be noted that the Posekim decided the law in accordance with the position of Rabbi Yishmael: Rif (Berakhot 44a), Maimonides (Hilkhot Berakhot 10:21), Rosh (Berakhot 9, no. 21), Tur and Shulchan Arukh (Orach Chayyim 230:4) codify only part of the talmudic passage in Berakhot 60a: “One who goes in to have his blood let should say: ‘May it be Your will, O Lord, my God, that this operation may be a cure for me, for You heal without payment.’ And when he goes out, he should say: ‘Blessed are you, O Lord, who heals the sick.”31 The continuation of the prayer (“and may You heal me, for You are a faithful healing God, and Your healing is true”) and the Gemara’s explanation (“since men have no power to heal, but this is the common practice”), they all omit from their rulings. Rabbi Yishmael’s opposition (“A man should not speak thus…”) was accepted as law.

The halakhic authorities, both medieval and modern, who discussed Rabbi Yishmael’s position regarding the permission granted to a doctor to heal, added other reasons for opposing human healing.

Rashi and Tosafot

Rashi and Tosafot dealt with the theological difficulty relating to medicine: Medical treatment, from the respective perspectives of both the doctor and the patient, is liable to be interpreted as interfering with God’s providence.32 According to them, the permission derived from the verse, “He shall cause him to be thoroughly healed,” serves as an

31 Maimonides, ibid.
32 Rashi, Bava Kama 85a, s.v. nitenah reshit la-rofe’im le-rapot”: “And we do not say – the Merciful One smites and he heals.” See also Tosafot, ad loc., s.v. “she-nitenah.”
appointment of the human doctor to act as God’s agent, as was explained above based on the Tosefta. Human healing does not contradict the Creator’s intentions, but rather it completes them.

The approach of Rashi and Tosafot is very reasonable in light of the cultural environment in which they lived, for in medieval Europe the practice of medicine was regarded as a denial of God’s will. Their explanation of the words of Rabbi Yishmael is also understandable in light of another source, the midrash in which Rabbi Yishmael deals with the views that oppose the practice of medicine. The formulation of this view in the midrash, “He [= God] smote and you heal?!” is very similar to the wording of Rashi: “And we do not say that the Merciful One struck and this one healed”:

It once happened that Rabbi Yishmael and Rabbi Akiva were walking in the streets of Jerusalem and a certain person was with them. They met a sick person who said to them: “O, Masters, tell me what I should do to heal myself.” They said to him: “Take this and that until you recover.” The person who was with them said to them: “Who smote him with disease?” They said to him: “The Holy One, blessed be He.” He said to them: “And you enter into an area that is not yours? He smote and you

33 See survey in E. Yakobowitz, Ha-Refu’ah ve-ha-Yahadut – Mechkar Hashva’ati ve-Histori al Yachas ha-Dat ha-Yehudit li-Refu’ah, Jerusalem 5739, pp. 25-47.

34 The Midrash also mentions Rabbi Akiva – Rabbi Yishmael’s colleague – in whose name the following Mishnah was taught: “All is foreseen, and freewill (reshut) is granted” – see above, note 8.
heal!” They said to him: “What is your craft?” He said to them: “I work the land; see the sickle in my hand.” They said to him: “Who created the land? Who created the vineyard?” He said to them: “The Holy One, blessed be He.” They said to him: “And you enter into an area that is not yours. He created it and you eat its fruit.” ([Midrash Shemuel, 4,1 [ed. Buber, 27b]])

Nachmanides

Nachmanides’ position is marked by an apparent contradiction between his commentary on the Torah and his ruling in his halakhic code, “Torat ha-Adam.” We shall present the contradiction between the two approaches, and after analyzing these sources, we shall propose a solution based on the position and thought of Nachmanides.35

Nachmanides explains the essence of the blessing that is promised to the righteous as a hidden miracle: “Reward and punishment in this world, as mentioned in the entire scope of the Torah, are all miracles, but they are hidden. They appear to the onlooker as being part of the natural order of things, but in truth they come upon man as punishment and reward [for his deed].”36 This principle also applies to man’s health:

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35 I wish to offer special thanks to Prof. David Novak for his help in analyzing Nachmanides’ position. Regarding Nachmanides’ views on nature and miracles, see D. Novak, The Theology of Nachmanides Systematically Presented, Atlanta 1992, pp. 77-87.

36 Nachmanides’ commentary to Exodus 6:1, translated by Ch.D. Chavel, p. 65 (citations below are according to this edition). This approach is typical of Nachmanides’ commentary to the Torah. See, for example, his remarks on Genesis 30:14; Exodus 4:10; Exodus 15:26; and elsewhere.
When there is a pious man who keeps all the commandments of the Lord, God will guard him from sickness, barrenness and bereavement… In general, then, when Israel is in perfect [accord with God], constituting a large number, their affairs are not conducted at all by the natural order of things, neither in connection with themselves, nor with reference to their land, neither collectively nor individually, for God blesses their bread and their water, and removes sickness from their midst, so that they do not need a physician and do not have to observe any of the rules of medicine, just as He said, “For I am the Lord that heals you” (Exodus 15:26). And so did the righteous ones act at the time when prophecy [existed], so that even if a mishap of iniquity overtook them, causing them sickness, they did not turn to the physicians, but only to the prophets, as was the case with Chizkiyah when he was sick. And Scripture states [of Asa by way of rebuke]: “Yet in his disease he did not seek the Lord, but the physicians” (II Chronicles 16:12)… This is also the intent of the Rabbis’ interpretation: “’And he shall cause him to be thoroughly healed’ (Exodus 21:18) - from here we learn that permission was given to a doctor to heal.” They did not say “permission was given to the sick to be healed” [by the physician], but instead they stated [by implication] that since the person who became sick comes [to the physician] to be healed, because he has accustomed himself to seeking medical help
and he was not of the congregation of the Lord whose portion is in this life, the physician should not refrain from healing him, whether because of fear that he might die under his hand, since he is qualified in the profession, or because he says that it is God alone who is the Healer of all flesh, since [after all] people have already accustomed themselves [to seeking medical help]. Therefore when men contend and one smites the other with a stone or a fist, the one who smote must pay for the healing, for the Torah does not base its laws upon miracles, just as it is said: “For the poor shall never cease out of all the land,” knowing [ beforehand] that such will be the case. But when a man’s ways please the Lord, he need have no concern with physicians.

Accordingly, at a time when God’s governance by way of overt miracles is not evident, an alternative natural mode of governance is available – “for the Torah does not base its laws upon miracles.” On the practical plane, the Torah recognizes the need for natural governance, and for that purpose, “permission was given to a doctor to heal” based on the principle of “he shall cause him to be thoroughly healed.”

Nachmanides presents a different approach in his halakhic work, *Torat ha-Adam*, where he deals with practical

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37 Here Nachmanides presents his halakhic approach, as he spells it out in his treatise, “*Torat ha-Adam*”; see below our reconciliation of the contradiction in Nachmanides’ words.

38 Nachmanides, Commentary to Leviticus 26:11 (pp. 460-463).
Several sources indicate that Nachmanides himself practiced medicine, and so his discussion of the matter had personal significance as well.

In his halakhic treatise, Nachmanides compares the role of a doctor to that of a judge, and therefore he uses the same formulation brought in tractate Sanhedrin (6b) regarding the parallel question concerning a judge who erred in his judgment. Just as judgment is a divinely-imposed task, so too the practice of medicine; thus a doctor may not try to evade his duty despite the uncertainties and dangers that it involves:

Lest a doctor say: Why have all this trouble, perhaps I will err and unintentionally take a life — therefore the Torah gave [a doctor] permission to heal... It may be suggested as follows that a doctor is like a judge who is commanded to give judgment, and if he unknowingly errs, he is not liable to any punishment whatsoever. As it is said (Sanhedrin 6b): “And lest the judge should say: Why have all this trouble and responsibility? Therefore the verse states: ‘He is with you in giving judgment’ (II Chronicles 19:6). A judge has only what


40 Responsa ha-Rashba, I, no. 120, regarding treating a non-Jew on Shabbat: “You also asked about a Jewish doctor whether or not he may treat a non-Jewish woman so that she may conceive.... I saw that Rabbenu Moshe ben Rav Nachman, of blessed memory, engaged in this practice for a non-Jewish woman for a fee.” Nachmanides was familiar with medical literature: “But I did not see this in any of the medical texts that deal with this” (commentary to Genesis 30:14; and see his commentary to Genesis 45:26; Leviticus 3:9; 12:2; 13:3; Numbers 21:9. Regarding Nachmanides as a doctor, see D. Margaliyot, Derekh Yisra’el bi-Refu’ah, Jerusalem 5730, p. 208ff.; Y. Leibowitz, “Netanim Refu’iyim be-Sefer Torat ha-Adam la-Ramban,” Korot 8, 7-8 (5743), pp. 209-215.
he sees with his own eyes.” …But this permission is a mitzvah… and saving a life is a great mitzvah. One who is quick is praiseworthy, one who accepts questions is ignoble, one who asks questions sheds blood, and all the more so one who despairs and does nothing… And it may be suggested that since permission was given to a doctor to heal, and the Torah even casts a mitzvah upon him, he has nothing to fear, for if he conducts himself in what he believes is the proper manner, his practice of medicine is exclusively a mitzvah, for the Torah commands him to heal, and his heart forced him to err… Remedies involve the danger that that which heals one person causes another person to die. And that which they said: “The best of the doctors to Gehinnom” (Kiddushin 82b) – to condemn the negligent conduct of doctors and their willful acts….41

The permission to heal not only removes any conceivable prohibition, but also imposes a positive obligation to practice medicine. Nachmanides’ understanding of the “permission given to a doctor to heal” in the sense of a duty was accepted as law by the halakhic authorities:

The Torah gave a doctor permission to heal. This is a mitzvah, included in the category of saving a life. If [a doctor] refrains [from practicing medicine], he sheds blood, even if someone else is available to

41 Sefer Torat ha-Adam (above, note 38, pp. 42-43).
treat [the patient], for a person does not achieve healing through everybody.42

Nachmanides’ two treatises deal with the permission granted to a doctor to heal from two different perspectives. In his commentary to the Torah, Nachmanides explains the Torah as based on the revelation of God and the miracles that He performs, and presents the religious approach of miraculous governance. Nevertheless, “the Torah does not base its laws upon miracles,” and therefore in his halakhic work, Torat ha-Adam, he emphasizes the permission – and even the mitzvah – to practice medicine.43 His biblical commentary and halakhic treatise complement each other in accordance with their respective natures and literary contexts. At the end of his commentary to Leviticus 26:11, however, Nachmanides puts forward his halakhic position as in Torat ha-Adam: “A physician should not refrain from healing him, because of fear that he might die under his hand, since he is qualified in the profession.”44

42 Shulchan Arukh, Yoreh De’ah, 336 (beginning). Maimonides writes in similar fashion (Hilkhot Nedarim 6:8): “He may personally give him medical treatment, for this is a mitzvah.” See the halakhic discussion in A. Sofer, Nishmat Avraham – Hilkhot Cholím Rofeím u-Refú’áh, Jerusalem 5743, on Yoreh Dé’ah 336:1; R. N. Lamm, “Tippul Refu’i im Yesh bo Mitzvah, Halikhot ve-Halakhot, Jerusalem 5750, pp. 180-184; R. Y.M. Lau, Responsa Yachel Yisra’el, II, no. 58. On the definition and various types of “permission,” see Encyclopedia Talmudit, s.v. “Chovah, Mitzvah, Reshut,” XII, Jerusalem 5727, p. 645ff., and especially p. 658. Linguistically, as well, the term “reshut” can be understood as “mitzvah” – see Y.N. Epstein, Meckkarim be-Sefrut ha-Talmud u-bi-Leshonot Shemiyot, I, Jerusalem 5748, pp. 61-68 (and so too “rashai” can mean “chayyav”).


44 Ibid. II, p. 186.
Rashba (R. Shlomo Ben Aderet)

After a series of lengthy discussions, Rashba and other leading authorities of his generation decided to forbid the study of science and philosophy, owing to the danger that it poses to Torah study and the future of the Jewish people. The ban, however, did not include the field of medicine: “We excluded the science of medicine from our ban, even though it is taken from nature, because the Torah gave the doctor permission to heal,” and “anything that effects healing is not forbidden because of Emorite ways.” According to Rashba’s understanding in this responsum, Rabbi Yishmael’s words relate to the philosophical problem of human cognition and intellect as opposed to divine revelation.

It is interesting to note that in his novellae to the Talmud, Rashba accepts the explanation of Rashi and the Tosafot regarding God’s granting permission to a human doctor to heal, and in the manner of an exegete he relies also on the wording of the Torah. In contrast, in the framework of his polemic regarding the study of science, he understands the permission granted to a doctor in a different manner. Rashba’s two statements complement each other: The permission granted to a doctor to heal also includes the permission to engage in the study of medicine,

45 See Responsa ba-Rashba, nos. 413-415.

46 Thus he writes in his novellae to Bava Kama 85a (ed. Lichtenstein, p. 425): “And he shall cause him to be thoroughly healed (rapo yerape)" - from here we learn that permission was given to a doctor to heal.” You might ask: Surely this is learned from ‘yerape’ alone! It may be suggested that had the Torah only written ‘yerape,’ I might have thought that permission was only given to heal in a case of a wound inflicted by man, but in the case of disease inflicted by heaven, it is forbidden. For He who smote is He who shall heal, and anyone who tries to heal him is regarded as nullifying a heavenly decree. Therefore, the verse had to mention healing twice to teach that in both cases permission was given to the doctor to heal.”
and the use of human knowledge to heal does not contradict God’s decrees.

**R. Yaakov Of Orleans**

…From here [we learn] that permission was given to a doctor to heal. R. Yaakov of Orleans raised an objection: This is obvious! Why should doctors not engage in healing? Surely it is written: “You shall restore it to him” (Deuteronomy 22:2) – and we interpret this as referring to the restoration of his body. And it is written: “You shall not stand idly by the blood of your neighbor” (Leviticus 19:16). He answered: Permission was given to heal for a wage, for we might have thought that [a doctor] is obligated to heal for free for the reason that I explained. *(Tosafot ha-Rosh, Berakhot 60a, s.v. u-mi-kan)*

According to R. Yaakov of Orleans, the allowance does not come to permit the practice of medicine, but rather it relates to a secondary issue, namely, the doctor’s fee. According to him, Rabbi Yishmael deals not with the clash between religion and medicine, but rather with the economic conditions relating to the medical profession: according to him, the Torah permits a doctor to charge a fee, apparently, in order to ensure the economic security of physicians. He understands that it would have been possible to understand from the Torah’s commandments “You shall restore it to him” and “You shall not stand idly by the blood of your neighbor” that one is obligated to help one’s fellow for no financial gain. It is also possible that this allowance comes to circumvent the prohibition that
is implied by the principle: “Just as I teach for free, so you should teach for free” (Bekhorot 29a).

If the “permission” granted to a doctor to heal is also a mitzvah, it may be possible to explain R. Yaakov of Orleans’ position as follows: “A doctor who heals for nothing is worth nothing” (Bava Kama 85a) – “The patient must be satisfied with his doctor. If the one who caused the injury said: ‘I have a friend who can heal you for free,’ he [the injured party] can argue that when a doctor does not receive a fee, his heart and mind are not focused on the needs of the patient, since he does not expect to receive a fee” (Rosh, beginning of chapter Ha-Chovel). According to this approach, the “permission” to heal makes it possible for a doctor to compel payment: appropriate remuneration of a doctor improves doctor-patient relationship.

Very little is known about the life of R. Yaakov of Orleans. We do know that he was one of the outstanding disciples of Rabbenu Tam. Owing to the difficulties that the Jews faced during the time of the Crusades, he allowed far-reaching leniencies in the area of taking interest.47 He fled from France to England because of persecutions, and died a martyr’s death in London in 1189.48 Against this backdrop, it is no wonder that R. Yaakov of Orleans understood the words of Rabbi Yishmael as an allowance to charge a fee. According to the plain sense of the talmudic text, it is difficult to understood the “permission to heal” as an al-

47 See Mordekhai, Bava Metz’ia, 455, and Chiddushei Anshei Shem and Haggahah, ad loc. R. Yosef Karo sharply disagreed with his halakhic allowances, writing: “There is no circumvention of [the prohibition of] taking interest greater than this” (Bet Yosef, Yoreh De’ah 177).

allowance to charge for medical services, for it would seem that there is no essential connection between the practice of medicine and the charging of a fee, as we saw in the two previous explanations.

Maimonides

Maimonides understands the practice of medicine as a fulfillment of the mitzvah of restoring lost property: “... because it is a mitzvah, namely, that a doctor is obligated by law to heal the sick of Israel. This is included in what they said in explanation of the verse, ‘You shall restore it to him’ (Deuteronomy 22:2) – to include his body,’ that if he sees that he is lost, and he can save him, he must save him with his body, or with his money, or with his knowledge” (Commentary to the Mishnah, Nedarim 4:4), or “He may personally give him medical treatment, for this is a mitzvah” (Mishneh Torah, Hilkhot Nedarim 6:8). The practice of medicine is an act of benefaction toward one’s fellow, and acts of benefaction, according to Maimonides, require no justification or permission from God. 49 Maimonides does not mention Rabbi Yishmael’s exposition of the verse, “He shall cause him to be thoroughly healed,” 50 for he wishes to emphasize the Torah’s mitzvah to help one’s fellow based on the law of “You shall restore it to him,” and not the permission granted to engage in medicine based on Rabbi Yishmael’s exposition. It should be remembered that

49 See his discussion of those who disagree with this position in his Commentary to the Mishnah, Pesachim 4:10, Avodah Zarah 4:7, and elsewhere.

50 Maimonides does, however, use the verse to derive a law based on its plain meaning: “From where [do we learn] that he is liable for the victim’s unemployment expenses and medical expenses independently? For it is stated: ‘Only he shall pay for the loss of his time, and he shall cause him to be thoroughly healed’ (Exodus 21:19).”
Maimonides himself was a physician. He related to medicine as permitted by natural law, and therefore he saw no need for a verse to refute a possible initial assumption that the practice of medicine is forbidden.

### IV. R. Kook’s understanding of the permission to heal

In his commentary to the *Siddur, Olat Ra’ayah*, R. Avraham Yitzchak Kook explains the blessing for healing: “May it be Your will, O Lord, my God, that this operation may be a cure for me, for You heal for free.” A careful examination of his words indicates that R. Kook combines the words of the *Rishonim* cited above, and provides them with an original and comprehensive explanation in accordance with his general outlook. We shall cite his words,

51 My revered teacher, R. Yehuda Amital, adduces proof for this understanding from a comparison of the following two rulings of Maimonides: “When a person kills a *trefah*, even though he eats, drinks and walks in the market place, he is not held liable by an earthly court for killing him. Every person is presumed to be physically sound, and a person who kills him should be executed unless it is certainly known that he is a *trefah*, and the physicians say that his infirmity does not have any remedy for humans and it will surely cause his death, if no other factor does first” (*Hilkhot Rotze‘ach u-Shemirat ha-Nefesh* 2:8); and: “One should not add to these conditions that render an animal *trefah* at all. For any condition that occurs with regard to a domesticated animal, wild beast, or fowl aside from those listed by the Sages of the early generations and which were agreed upon by the courts of Israel can possibly live. [This applies] even if it is known to us according to medical wisdom that ultimately it will not live” (*Hilkhot Shechitah* 10:12). Regarding ritual slaughter, the law is determined exclusively by rabbinic rulings, and nothing must be added to it based on medical knowledge. This is not the case regarding the laws of murder, for the Torah gave a doctor permission to heal at all times. See the references to other explanations in Frankl’s edition of the *Mishneh Torah*. See also D. Novak, *Natural Law in Judaism*, Cambridge, 1998, pp. 101-105.


53 Jerusalem, 5699, p. 390. The parallel passage in R. Kook’s commentary to *Berakhot, Ayin Ayah*, is almost identical, and has no significant differences, and therefore I have not related to the minor differences in readings.
and then try to explain them based on our analysis of the talmudic passage and the interpretations of the Rishonim.

**The issue of payment and the objective of healing**

For you heal for free – for You are a faithful Healer and Your healing is true, since men have no power to heal, but this is the common practice. Abaye said: A man should not speak in this manner, for it was taught in the school of Rabbi Yishmael: [It is written:] “He shall cause him to be thoroughly healed” (Exodus 21:19). From here we learn that permission was given to a doctor to heal (*Berakhot* 60a).

A doctor who charges a fee has another objective in addition to the healing and health of the patient. But the Divine goal of the faithful Healer is solely the success and health of His creatures, health of the body and health of the soul. Accordingly, He has no other objective besides the healing itself, and He heals for free.

At the beginning of the passage, R. Kook relates to the doctor’s fee. Accepting a fee for medical service has great significance, for there is a fundamental difference between God’s healing and the healing of man. A human doctor will never be able to heal out of love for all men in the way that God does. This distinction expresses itself in the fact that God heals for free, because for this reason “He has no other objective besides the healing itself” and He is “a faithful Healer and His healing is true.” When a human doctor engages in medicine, he requires special permission,
because he can never reach that level of God’s goal. Alluding to the words of R. Yaakov of Orleans, R. Kook gives the economic explanation fundamental significance.

R. Kook makes another distinction between Divine healing and human healing: A human doctor turns to “the patient” and tries to restore “his health” by way of a “cure.” “The Divine objective” turns to all types of health, “health of the body and health of the soul,” and includes also “success.” God seeks the health of all “His creatures,” and this also includes a proper balance between body and soul, as is also accepted in modern medical literature.54

**Physical Healing and Spiritual Healing**

Man is an organic creature; his physical faculties are joined and connected one to the other, as are his spiritual functions, and the two are connected to each other with a strong bond. Who can say that he is familiar with all the faculties of the body and soul and their relationship to the forces in the world at large? Accordingly, even if he heals one side, short and narrow, perhaps the change causes much damage on the other side, equal to the benefit resulting from his healing. Thus, it cannot be determined whether the healing is true.

R. Kook utilizes Nachmanides’ explanation, according to which permission is necessary to provide all types of medical treatment, in face of the many dangers that they involve. If a doctor conducts himself in proper manner, in accordance with his abilities and medical knowledge, “he

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54 See above, note 24, for a definition of the concept of “health.”
has nothing to fear,” that he will perhaps err and unintentionally kill his patient, for surely it was for this reason that the Torah granted a doctor permission to heal. As a doctor, Nachmanides understood the problematic nature of every medical decision. R. Kook adds and emphasizes the complexity of man as an organic creature that is composed of body and soul and maintains a network of connections with the outside world: “Who can say that he is familiar with all the faculties of the body and soul and their relationship to the forces in the world at large?”

**The Science of Medicine and Divine Governance**

Therefore, since human intelligence does not fully understand healing, but experience teaches us that the science of medicine often hits the truth, we must understand that the use of human wisdom in medicine is also one of the marvels of Divine governance, and we assign the matter to supernal providence, like those things that we are utterly incapable of doing by ourselves, because You alone, O Lord, are a faithful Healer, before whom all the secrets of and connections between body and soul are revealed, and Your healing is true without causing damage somewhere else.

All human wisdom in general, and the science of medicine in particular, is uncertain, especially in our time,

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55 So, for example, ruled R. Yonatan Eibeshutz, *Kereti u-Peleti, Yoreh De’ah* 168:5: “Scientists and doctors have no certain knowledge, but they decided to claim certainty and absence of any doubt, even though they judge matters in accordance with their reason and appearances. Therefore, the Sages said: ‘The best of doctors to Gehinnom.’”
when the science of medicine has developed in astonishing fashion into countless specialties, and treatment in one area is easily liable to cause “damage somewhere else.” The very “use of human wisdom in medicine” which does not consider “all the secrets of and connections between body and soul” requires Divine assistance.

R. Kook deals with the issue of human cognition as opposed to “supernal wisdom between which and our wisdom there is no relationship or similarity” (Responsa ha-Rashba, I, no. 415). The science of medicine merits a special status in this context, for the Torah gives a doctor permission to heal. According to him, there is no contradiction between man’s action and the Creator’s governance; on the contrary, this combination is part of God’s providence. R. Kook makes use here of Rashi and Tosafot’s understanding of “the permission given to a doctor to heal”: the use of human wisdom in medicine is not defined as “contradicting a royal decree” (wording of Tosafot), for it is God who “favors man with knowledge and teaches mortals understanding.”

R. Kook integrates Rashba’s explanation with that of Rashi and Tosafot, but expands upon Rashba’s comment


57 See R. Kook’s comments on the same matter in “Olat Ra‘ayah,” I, pp. 273-274, regarding the “You favor man with knowledge” blessing and the “who are wise in secrets” blessing; and in his talmudic commentary, “Ayin Ayah,” on Berakhot 58a.

58 This is the way that Maharsha explains the wording of the blessing, “who has formed man in wisdom”: “In wisdom relates to man, for the Holy One, blessed be He, gave him wisdom when He created him, unlike all the other living creatures, whom He did not give wisdom.” See my article, “Asher Yatzar ha-Adam be-Chokmah, Assia 63-64 (5759), pp. 124-138, for a detailed discussion of the various explanations.
regarding human wisdom.\textsuperscript{59} It is possible that R. Kook intentionally combined Rashba’s explanation in his responsum regarding the study of science and philosophy with the explanation of Rashi and Tosafot on the Gemara, because Rashba adopted this understanding in his novellae to the Gemara (\textit{Bava Kama} 85a).

**Addition of R. Kook**

Abaye said that we should not concern ourselves with the hidden connections that we cannot perceive, for if so, you nullify all of man’s efforts for material and spiritual repair, for a person will be concerned in everything that he repairs and improves that perhaps he is thereby causing some damage in some hidden connection. Rather this is the principle that should not at all be questioned, that the Torah gave a doctor permission to heal because he is qualified in this profession, and “a judge has only what he sees with his own eyes.” One should not raise doubts based on hidden concerns that will weaken the hands of those toiling to repair the world. Wisdom strengthens the wise (see Ecclesiastes 7:19), and the development of man’s reason and all of his discoveries each in its own time – this is all the work of God, which becomes revealed in accordance with the needs of man in his time and in his generation, to which nothing should be added and nothing taken from it. For the Lord gives wisdom; out of His mouth comes knowledge and understanding (see Proverbs 2:6).

\textsuperscript{59} Note the similarity between R. Kook’s wording and that of Rashba.
Despite all the uncertainties and dangers, it falls upon man “to engage in the material and spiritual repair of the world.” In this passage R. Kook makes repeated use of the concept of “repair.” The concept “repair of the world” is taken from the Tosefta in the same context, but it is possible that the emphasis that he lays on this concept is also connected to the basic meaning of the root “resh-peh-alef” in Scripture – “repair.”

The fundamental task of the doctor (rofe) is to engage in the “material and spiritual repair” of his patient, and in this way he engages in “repair of the world.” Since medical wisdom must also take into account “the needs of man in his time and in his generation” and “the forces of the world at large,” we understand the expansion of the “material and spiritual repair” of the individual into “repair of the world” on the universal level.

The requirement as formulated by R. Kook that the doctor be “qualified in this profession” is a combination of the wording of the Tosefta in Gittin and the wording of the Shulchan Arukh in the context of the permission granted to practice medicine. According to the Tosefta - “If a professional doctor treated [a patient] with the permission of the court, and caused him damage – inadvertently, he is exempt; intentionally, he is liable, for the sake of public welfare.” And thus rules R. Yosef Karo in the Shulchan Arukh: “However, he should not practice medicine unless he is qualified - for otherwise he sheds blood - and there is nobody there greater than himself” (Shulchan Arukh, Yoreh De’ah 336).

60 Tosefta, Gittin 3:8, ed. Lieberman, p. 257.
61 See, for example, “And he repaired (vayerape) the altar of the Lord that was broken down” (I Kings 18:30); “I have repaired (ripeti) this water” (II Kings 2:21).
62 Above, notes 29, 59.
The change in the wording of the Tosefta introduced by R. Yosef Karo in his *Shulchan Arukh* can be explained by the period and the nature of the works: The Tosefta starts with the assumption that there exists a court that authorizes doctors to practice medicine and oversees the medical profession, whereas R. Karo comes to issue halakhic rulings for his generation, when no such court existed. Therefore, “permission of the court” is defined exclusively by professional standards (“qualified, and there is nobody there greater than himself”).63 R. Kook relates to these two possibilities and combines them: “the Torah gave permission to the doctor to heal because he is qualified in his profession.”

The addition in the words of R. Kook, “a judge has only what he sees with his own eyes,” is taken from *Sanhedrin* (6b), based on Nachmanides’ explanation of the permission given to a doctor to heal (see discussion above). A doctor is permitted and obligated to rely on his own knowledge, and in this way he will merit “the development of man’s reason.”

R. Kook concludes his discussion with a citation of the words of Ecclesiastes (7:19): “Wisdom strengthens the wise.” They fit in well in R. Kook’s exposition based on their context in the book of Ecclesiastes.

Be not righteous overmuch; nor make yourself overwise: why should you destroy yourself? Be not wicked overmuch, nor be foolish: why should you die before your time? It is good that you should take hold

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63 See the halakhic discussions regarding the professional training that is necessary in *Responsa Tzitz Eliezer*, V, Ramat Rachel, no. 22, 1-4; *Responsa Bet Hillel*, Yoreh De’ah, no. 336; *Arukh ha-Shulchan*, Yoreh De’ah, 336:2; *Responsa ha-Chidah*, Shiyyurei Berakhah, Orach Chayyim, 328:15.
of this; but do not withdraw your hand from that either: for he that fears God performs them all. Wisdom strengthens the wise more than ten rulers who are in a city. For there is not a just man upon earth, that does good, and sins not. (Ecclesiastes 7:16-20)

The citation from the book of Proverbs also emphasizes that the fear of the Lord precedes wisdom, and in this way God protects “those who walk uprightly”: “Then you shall understand the fear of the Lord, and find the knowledge of God. For the Lord gives wisdom: out of His mouth come knowledge and understanding. He lays up sound wisdom for the righteous: he is a shield to those who walk uprightly” (Proverbs 2:5-7).

“This is all the work of God, which becomes revealed in accordance with the needs of man,” for “the use of human wisdom in medicine is one of the marvels of Divine governance,” and therefore the Divine permission given to a doctor to heal gives medicine Divine status. The permission to practice medicine is then a real mitzvah, and nothing should be added to it or taken from it (based on Ecclesiastes 3:14). Based on this, the practice of medicine does not stand in contradiction to God’s decrees, for surely “the development of man’s reason and all of his discoveries each in its own time – this is all the work of God,” and it is given by God, “for the Lord gives wisdom: out of His mouth come knowledge and understanding” (Proverbs 2:6). In the context of medicine, special importance is attached to

64 This is the wording of the Shulchan Arukh, Yoreh De’ah 336: “The Torah gave a doctor permission to heal. This is a mitzvah, included in the category of saving a life. If [a doctor] refrains [from practicing medicine], he sheds blood.”
the study of a science that leads to “the development of man’s reason.”

R. Kook’s words, “to which nothing should be added and nothing taken from it,” refer to the wisdom and reason of man. The source of the prohibition is found in the Torah: “You shall not add thereto, nor diminish from it” (Deuteronomy 13:1). The use of this expression is very surprising, for the prohibitions “not to add” and “not to subtract” apply to the Torah’s commandments, and not to “man’s reason.” But since according to R. Kook, “this is all the work of God, which becomes revealed in accordance with the needs of man,” the prohibitions of adding and subtracting apply also to “man’s reason,” as they do to the commandments. The force of “the development of man’s reason,” that is, the scientific advance of human knowledge, obligates man to full observance of the Torah’s commandments as they were given, for “we must understand that the use of human wisdom in medicine is also one of the marvels of Divine governance, and we assign the matter to supernal providence.” According to this understanding, the prohibition of “not adding and not subtracting” applies also to human wisdom itself – “to which nothing should be added and nothing taken from it. For the Lord gives wisdom; out of His mouth comes knowledge and understanding.”

65 See Maimonides’ remark about the special importance attached to the science of medicine: “In this way the science of medicine will be an exceedingly great introduction to the knowledge of God and the acquisition of true success, and its study and practice will be one of the great modes of service…” (Shemoneh Perakim, chap. 5). See A. Steinberg, “Limud Refu’ah, Encyclopedia Refu’it Hilkhait, III, Jerusalem 5759, pp. 386-399.

66 Regarding the prohibition “not to add or subtract” in the teachings of R. Kook, see Resposta Mishpat Kohen (Inyanei Eretz Yisra’el), no. 143, s.v. ve-hineh hizkarti.
The harmony and perfection of man’s wisdom that was given to him by God – that itself is the permission given to a doctor to heal, and therefore there is no contradiction whatsoever between God’s decrees and man’s practice of medicine. Human wisdom derives from God’s wisdom, in the sense of “who has imparted of His wisdom to those who revere Him.” Even though human wisdom and the science of medicine are limited, a doctor is permitted to practice medicine based on the allowance given to a doctor to heal.

After surveying the various explanations offered by the Rishonim, it is this explanation that remains central according to R. Kook’s understanding of the words of Rabbi Yishmael, and therefore he concludes his remarks with this idea. In his halakhic responsum in Da’at Kohen (no. 140) as well, R. Kook mentions the limitations of human wisdom as the sole explanation of the words of Rabbi Yishmael:

The plain sense of the words of the Sages, of blessed memory, (Bava Kama 85a): “’He shall cause him to be thoroughly healed’ (Exodus 21:19). From here we learn that permission was given to a doctor to heal” – indicates this, that the practice of medicine based on its science is uncertain. For were it certain, how could you imagine that he is not obligated to heal? Does he not violate the prohibition of “You shall not stand idly by the blood of your neighbor” (Leviticus 19:16), for any trouble that

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67 See Berakhot 58b and R. Kook's comments in Ayin Ayah. Similarly we find in Bava Batra 12b: “Since the day when the Temple was destroyed, prophecy has been taken from the prophets and given to the wise… A wise man is even superior to a prophet, as it says: ‘And a prophet has a heart of wisdom’ (Psalms 90:12).”
befalls him, even from heaven? A lion comes from heaven (see *Ketubot* 30a), but nevertheless we are obligated to rescue him, and there is no concern that “the Merciful One smote, etc.,” and the same is true here. Rather the principle is that the foundations of medicine are not that clear, and he doesn’t know with certainty that their assumptions are not in doubt. It was, therefore, necessary to grant permission, for no alternative is available to man.

**Rabbi Yishmael and his teaching regarding the permission granted to a doctor to heal**

As stated above, R. Kook provides the words of Rabbi Yishmael with a comprehensive explanation, negating any possible thought of forbidding the practice of medicine, provided that the doctor is careful to maintain a proper balance between physical and spiritual healing (see above). This explanation fits in well with Rabbi Yishmael’s teachings elsewhere in the Talmud on issues regarding life and death, and physical and spiritual healing (*Avodah Zarah* 27b), and it is very possible that he himself practiced medicine.68 Rabbi Yishmael allowed his disciples to participate in autopsies (*Bekhorot* 45a),69 but he related to their conclusions with great caution, especially when the results

68 Rabbi Yishmael was a *kohen* – “Yishmael kabana” (*Chullin* 49b, *Ketubot* 105b, *Tosefta*, *Challah* 1:11) – and it was perhaps owing to the prohibition falling upon a *kohen* to contract ritual impurity that Rabbi Yishmael did not personally participate in the autopsy.

69 A slightly different reading is found in *Shittah Mekubetzet*: “… And they found two hundred and fifty-two joints and limbs. They came and asked Rabbi Yishmael: ‘How many joints and limbs are there in the human body?’ He said to them: ‘Two hundred and forty-eight.’ They said to him: ‘But surely we checked and found two hundred and fifty-two…’”
contradicted the words of the Torah, and in such a case he even called them “fools” (*Niddah* 30b). Already from these sources it seems that Rabbi Yishmael tried to increase his knowledge in order to find a balance between his world of Torah and his interest in medicine. Rabbi Yishmael established the great principle concerning the saving of life, “that you shall live through them’ – and not that you shall die through them,” but for this purpose one must not desecrate the name of God. Material life is not more important than the spiritual value of sanctifying the name of God, and a proper balance must be found between the two areas (*Sanhedrin* 74a). For this reason, Rabbi Yishmael forbade his nephew to seek treatment at the hands of the heretic Yaakov of the village of Sakhniya, “for he was liable to be drawn in after him.” Rabbi Yishmael also heaped praise upon Ben Dama for not giving up his purity “in body and in soul,” and not violating the words of his colleagues: “Fortunate are you Ben Dama, for you were pure in body, and your soul left you in purity” (*Avodah Zarah* 27b). That same Ben Dama had inquired of Rabbi Yish-

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70 See also the less biting formulation in Tosefta, *Niddah* 4:17 with the variant readings, without the words “proof from fools”: “Rabbi Yishmael said: A story is told of Cleopatra the queen of Alexandria that she brought her maidservants who had been sentenced to death by royal decree and tore them open, and it was found that a male embryo was fully fashioned on the forty-first day and a female embryo on the eighty-first day. They said to him: Proof cannot be brought from here. From where can proof be brought? From a woman who was newly married or from a woman whose husband returned from overseas.”

mael about studying Greek wisdom, and Rabbi Yishmael responded by stressing the supreme importance of Torah study (Menachot 99b).

Elie Wiesel, an author of our time, describes Rabbi Yishmael, as one who sought a balance between the external world and its inner meaning, as is it implied from what is told about Rabbi Yishmael’s childhood during the period of the destruction of the Temple: Despite God’s providence over all His creatures, it falls upon man to choose the good, and through his good actions, he can change his “fate” (Gittin 58a). This outlook applies both in the national context of exile and redemption and on the personal plain in order to avoid the dangers of daily life: Even though everything is foreseen, man is given the permission and the obligation to change the world to the best of his ability, and in this way he can save himself from death (Shabbat 32a).

Rabbi Yishmael’s view regarding the “permission given to a doctor to heal” should therefore be understood in light of his general outlook regarding the relationship between life and death and between body and soul. “Fortunate are you Ben Dama, for you were pure in body, and your soul left you in purity” (Avodah Zarah 27b).

As a talmudic commentator and thinker, R. Kook developed the discussion regarding the relationship between body and soul based both on the view of Rabbi Yishmael

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72 See S. Lieberman, Yevanit ve-Yavnut be-Eretz Yisra'el, Jerusalem 5723, pp. 225-235. Rabbi Yishmael interpreted the dreams (Berakhot 56b) and was intimately familiar with the personality, i.e., “the pure soul,” of his sister’s son (based on Avodah Zarah 27b).

73 See E. Weisel, Célébration talmudique – Portraits et légendes, Paris 1991. This understanding explains several of Rabbi Yishmael’s statements, as well as his martyrdom in sanctification of God’s name.

74 See the parallel source in Tosefta, Parah 10:3.
and on his own outlook, and in light of his understanding of the dangers of medical research in his day: “Man is an organic creature,” and therefore a doctor must be given special permission to heal, in order to preserve the balance between body and soul.

V. The novelty of R. Kook’s position and the message for our generation

We have attempted to present Rabbi Yishmael’s teaching based on the biblical text (I) and against the philosophical background of “the permission given to a doctor to heal” (II). The *Rishonim* emphasized different aspects of the issue, requiring special permission to practice medicine – each authority according to his generation and general outlook (III). R. Kook related to the words of his predecessors and added an original explanation based on Rabbi Yishmael’s own views. This explanation accords with R. Kook’s general outlook and religious philosophy, and it has an important message for modern medicine (IV).

By virtue of his greatness in Halakha and Jewish thought, R. Kook was able to join together the various explanations of Rabbi Yishmael’s position. “It would not be an exaggeration to say that our master, Rav Avraham Yitzchak Ha-Kohen Kook, of blessed memory, was the only Torah authority in our generation who equally mastered Halakhah and Aggadah.”75 R. Kook’s explanation of the words of Rabbi Yishmael is a classic example of his genius: he interwove the words of the Written Law and its commentaries, the Oral Law and the explanations of the *Rishonim*, adding his own deep and original interpreta-

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tions, and drawing important conclusions for the problem of medicine in our generation:

1. “The faithful Healer” (God) desires our health and success for no other purpose – “for You heal for free.”

2. Man is an “organic creature,” and any medical treatment is liable to upset the delicate balance between his physical and spiritual faculties.

3. “It falls upon man to engage in the material and spiritual repair of the world,” despite the dangers inherent in the task. When a doctor practices medicine, he fulfills a Divine mission (“the use of human wisdom in medicine is one of the marvels of Divine governance”).

4. The practice of medicine is conditioned on the doctor’s being “qualified in his profession,” and a doctor must rely on his knowledge, for “a judge has only what he sees with his own eyes.”

5. Special wisdom is necessary to match medical knowledge to the needs of the individual in each generation: “This is all the work of God, which becomes revealed in accordance with the needs of man.”

The discussion surrounding this issue is a clear example of R. Kook’s method and genius, and his ability to combine many different sources from diverse periods and derive from them a uniform message. R. Kook himself defined his method in his Orot ha-Torah: “… Every element in the Torah stems from the entire Torah, both the Written Law and the Oral Law… In each particular word of the Torah and in each particular law shines infinite supernal light… to the point that a new song can stretch out over every law and every chapter.”

76 See Orot ha-Torah, chap. 4, nos. 3-4.