Yichud and the Physician

Rabbi Azarya Berzon

The sensitive subject of Yichud in the case of a woman under the care of a male doctor has been discussed in recent responsa. Halacha classifies medical treatment as a religious obligation incumbent both upon the patient seeking help and the physician applying his knowledge and skill in an endeavor to heal. Yichud, on the other hand, is a religious prohibition, and cannot be treated lightly. The conflict between medical procedure and the law of Yichud seems to be inherent in the very nature of the two. Privacy in medical treatment is necessary both for the doctor and the patient. A physician can function at his optimum when he can give all his attention to the medical checkup, unhindered by intrusion or interference. A patient will cooperate well with the physician when he or she is at ease. In the case of a female patient, anxiety about the possibility of someone barging into the examination room while she may be undressed can be so unnerving that the next time she needs a doctor, she might decide to stay home and suffer rather than subject herself to the degrading experience of a medical checkup.

Rabbi Azarya Berzon is currently serving as Co-Rosh Kollel of the Yeshiva University Torah Mitziyon Kollel of Toronto. He received his rabbinic ordination from the Rabbi Isaac Elchanan Theological Seminary of Yeshiva University in 1977, and a MA in philosophy from the New School for Social Research. He served as Rosh Yeshiva of Sha’arei Mevaseret Zion for 18 years and of Michlelet Mevaseret Yerushalayim for 15 years.
The halacha is acutely aware of human sensitivities and has always protected the dignity of a human being. It would not allow a medical examination to be exposed to the public eye. But privacy, which is necessary for proper medical treatment, is the very essence of the prohibition of *Yichud*. The halacha, therefore, must address itself to the question of how Jewish law can obligate medical procedure and simultaneously insist on the observance of the regulations of *Yichud*.

A number of *Poskim* have suggested that a satisfactory medical examination does not require total privacy, while in the case of *Yichud* nothing less than total privacy constitutes a violation of Jewish law. Rav Eliezer Waldenberg,¹ suggests a number of permissible ways of providing limited privacy for a patient that would not constitute a violation of the law of *Yichud*: 1) the door of the examining room is closed, but not locked, and three people or a married couple are present in the waiting room; 2) even if the door is locked, if the key is in the hands of someone anywhere in the city, who can open it at any time; 3) the husband of the woman who is being examined is in the city;² 4) the doctor’s office is located in one of the rooms of the doctor’s residence. The last

---

1  *Tzitz Eliezer* 6:40, chapter 12
2  See also Rav 5. Katz, *Kedoshim Tihiyu*, p. 148, who quotes Rav Mordechai ben Eliyahu as having applied this leniency to a doctor making a “house call” to a female patient when the door of the house is locked. Rav Eliyahu also applied the leniency of the Dovei Mesharim, cited in *Dvar Halacha*, p. 30, who permitted *Yichud* in a locked room when the members of the family have keys and may enter at will. See also *She’arim Metzuyatlim be’Halacha*, no. 152, par. 5.
condition would permit Yichud even if the door is locked.\textsuperscript{3}

A common denominator in the permissive rulings of contemporary Poskim on this issue is the analogy of this situation to that of the working woman. It was common in the Egyptian community of the 16th century for Jewish women to work in the homes of non-Jews. A significant responsum written by Rav David ibn Zimra in Teshuvot Radbaz III, 481, justifies this practice. Radbaz employs two Halachic principles which had never before been applied to the laws of Yichud. The first is “bi’avodateihu tarud”, meaning that people are so engrossed in their work that they have no interest in sexual escapades. This is based on the ruling of the Gemara in Avodah Zarah,\textsuperscript{4} concerning animal breeders. Although it is forbidden to watch animals while they are mating, the prohibition does not apply in the case of a professional animal breeder. The reason given in the Gemara is “bi’avodateihu tarud,” that he is so absorbed in his labors that sexual thoughts do not enter his mind. Since the women were employed by men who were themselves occupied with their craft, the mood of all was impersonal and businesslike. Such an environment would tend to repress sexual interest.

The second concept is that one will not risk ruin-
ing his reputation and a profitable business relationship by committing a sexual offence. Ostensibly, the Radbaz derives this idea from the general principle which underlines a variety of halachot: “chazakah al uman shelo mafiid umnato”, i.e., a craftsman will not willfully jeopardize his reputation. A sexual offense against an employee by a non-Jew would be totally contrary to his self-interest. Although Radbaz considers his reasoning halachically sound, he does not approve of Jewish women being alone with their non-Jewish employers on the grounds that it encourages immodest behavior.

The principles employed by Radbaz to justify Yichud for a working woman have been utilized by the poskim to decide a variety of contemporary problems in Yichud. It is obvious that these principles apply quite well to the case of the physician. The poskim argue that: 1) a professional would not risk his reputation, and thereby his livelihood; 2) while engrossed in his work he is not disposed to sexual temptations; 3) the fear of governmental punishment will prevent him from committing sexual offenses. The poskim, however, did not go so far as to permit Yichud with a physician based solely on the principles of the Radbaz. Yet these principles weighed in to allow for leniency where additional factors prevail, and to permit Yichud where otherwise the Halacha would be strict. Therefore, although Yichud is prohibited by most poskim in a situation in which outsiders would not enter a private room unless they first received permission to do so, in the case of a medical examination they are willing to rely on the minority view that as long as the door is unlocked, there is

---

5 D’var Halacha, p. 27 and p. 38, par. 8.
Yichud and the Physician

no Yichud, and the exam is permitted. This leniency is due to the fact that the Radbaz’s principles apply in this case.\(^6\)

It would not be correct to say, however, that all Poskim are lenient in this case. Rabbis Joseph Eliyashiv and Chaim Scheinberg permitted Yichud with a doctor in an unlocked room only when three other Jewish doctors or nurses are present in the clinic. This is merely an application of the general rule of a room which opens to a public area.\(^7\) Rav A. Horowitz\(^8\) expresses a similar view.

Rav Yitzchak Weisz\(^9\) permits Yichud with a physician in only two situations: 1) the patient’s husband is present in the waiting room, and the door of the examination room is slightly ajar; or 2) the patient is accompanied by another woman in the examination room. The husband of the accompanying woman must be within the city and must be aware of his wife’s exact whereabouts. In this latter situation the door may be closed if there are workers who occasionally enter the examination room at will.

In *A Halachic Guide to Nurses in Hospitals*, Rav. J. Neuwirth of Jerusalem notes that observant doctors and nurses, when administering medical treatment to patients in hospital rooms, must be careful not to violate the laws of Yichud by locking the door. In an article in *Assia*,\(^10\) Rav Aviner cites many sources to prove that the laws of Yichud apply even when the male or female patient is very ill.

---

\(^6\) See *She’arim Metzuyanim be’Halacha*, no. 152, par . 3.

\(^7\) See Kiddushin 81a

\(^8\) *D’var Halacha*, p. 45, note #43

\(^9\) *Minchat Yitzchak*, VII, 73

\(^10\) Rav S. Aviner, in *Assia*, a journal of halacha and medicine, edited by Dr. A. Steinberg, vol. II, p. 92.
To summarize this thorny question: the requirements of taking care of the sick do not in and of themselves remove the issur of Yichud. We have indicated a number of options which might be exercised in order to avoid infringement of this prohibition – measures such as leaving the door of the examination room ajar or having a companion accompany the individual who is being examined.\(^\text{11}\)

The question of Yichud with a professional counselor or psychologist is a more serious one and should be examined in the light of the considerations mentioned above. The application of the principle of “bi’avo\text{\textviser}{datei}hu tarud” seems less appropriate than in the case of physician, for the elements of friendship and empathy which often characterize a counselor-client relationship can engender an intimacy which demands a more stringent approach to the application of the Yichud laws. A study of the special laws of Yichud with respect to an intimate relationship such as counseling is beyond the scope of this paper.

\(^{11}\) We can add to these the leniencies mentioned by the Tzitz Eliezer [cited at the beginning of this essay]: the door of the examining room is closed, but not locked, and three people or a married couple are present in the waiting room; if a married woman is being examined, and her husband is somewhere in the city; if the doctor’s office is located in one of the rooms of his private residence.

The Tzitz Eliezer goes a step further and permits the examination even if the door is locked, but the key is in the hands of someone anywhere in the city who can open it at any time. It would seem that the majority of poskim take a stricter view and would require three conditions to be fulfilled before relying on this heter: a) the one possessing the key is a Jewish male; b) he is a kasher not a parutz; c) there is reason to expect that this person might enter the room during these hours.

As to the definition of a parutz, three opinions appear in the Poskim:

1) Someone who is totally ignorant of Jewish law;
2) Someone who deliberately violates Jewish law;
3) Someone who is known to be sexually immoral.

See D\text{\textviser}{\textit{var Halacha}}, pp. 113, 116, 162