



## נדרים דף ס'

### HALACHA CHABURA DAF 60

#### **Me'ais Le'ais Regarding Childbirth**

Our Mishnah teaches that if someone makes a neder for “today,” it is in effect until nightfall. This is in contrast to a neder for “one day,” which the Mishnah later says applies for a 24-hour span. These two options are relevant not only to nedarim, but to many other areas of halacha. Let’s discuss a few.

In Hilchos Shabbos, the Shulchan Aruch (330:4) details the laws of a yoledes, a woman who just gave birth. It is assumed as a given that she is regarded as a חולה שיש בו סכנה, someone dangerously ill. The only issue is, for how long? He writes: “The first three days after birth, even if she says she doesn’t need, we profane Shabbos [to assist] her. From day 3 until day 7, if she says she doesn’t need, we don’t profane Shabbos. After that, even if she says she needs, we don’t. Until 30 days after birth, she has the status of a חולה שאין בו סכנה, one sick without danger.” The same set of rules is brought in Hilchos Yom Kippur. “Within three days of birth, she should not fast at all. From 3 to 7, if she says... These days are not calculated by 24-hour spans, but as soon as the fourth day begins it is called after three” (O.C. 617:4).

The Mishnah Berurah in Hilchos Shabbos, citing the Magen Avraham, understands that the last detail applies to Shabbos as well. Thus, in both Hilchos Shabbos and in Hilchos Yom Kippur, the days are not calculated in 24-hour increments, but go by when the next day begins.

However, the Mishnah Berurah notes that the Gr”a argues on all this. He holds that in both halachos the days are calculated according to when the birth took place, every 24 hours a new day. The Mishnah Berurah concludes, “It appears that certainly regarding Yom Kippur one may be lenient, since it might be life-threatening (to fast). And even on Shabbos, if there is no gentile available to do it, a Jew is permitted [to profane Shabbos for her].”

Another topic is, when does this timespan begin? Is it when the cervix opens, or when the baby is actually born? The Biyur Halacha (כל שלשה ימים) cites the Lechem Mishnah that it goes by the opening of the cervix, but the Rambam implies that we go by the actual birth. See there further for various sides of the argument; and factors such as if the birth is normal or protracted. He also points out that if there is any other preexisting illness, these parameters do not apply. Regarding the dispute in general, he leaves it undecided.

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Additionally, the poskim discuss (in the view that it goes by time of birth) if the culmination of the birth gives her the status of a yoledes, or only when the placenta comes out. See the Nishmas Avraham (Vol. 1:347) who collates a dispute among the Acharonim on this. He notes that if a health issue delays birth of the placenta for a long time, it is definitely not taken into account, and the days of yoledes already begin. Only for a regular, healthy birth is there a discussion.

Does the status of yoledes apply after a miscarriage? The Biyur Halacha in Hilchos Yom Kippur (ibid.) says that it does, at least regarding fasting on Yom Kippur. A qualification, says the Chut Shani (ibid.), is that this applies only if the fetus had been 40 days old. Prior to this, the rules of yoledes do not apply (and we consider each situation based on the circumstances).

Regarding birth by C-section, the Chut Shani deliberates if she has the rules mentioned above for a yoledes. On one hand, since she didn't give birth naturally, her body did not suffer as much a trauma. On the other hand, she had to undergo an operation, so maybe she's in a worse condition than after a regular delivery. Each case must be examined separately.

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