Table of Contents

[The Shaylah: Doctors Treating Parents 2](#_Toc516077001)

[Issur of Chovel biChavero 2](#_Toc516077002)

[Source: Passuk of Lo Yosif 2](#_Toc516077003)

[Administering Malkus Kifi Kocho 2](#_Toc516077004)

[Lav of Lo Yosif 3](#_Toc516077005)

[Lo Yosif Applies to All Jews 4](#_Toc516077006)

[Derech Nitzayon: Cosmetic Surgery 4](#_Toc516077007)

[Differences Regarding One’s Parent 4](#_Toc516077008)

[(1) Punishable by Death 4](#_Toc516077009)

[(2) Requirement of a Chaburah 5](#_Toc516077010)

[Treating One’s Parents 6](#_Toc516077011)

[Gemara: The Question of Drawing a Parent’s Blood 6](#_Toc516077012)

[Machlokes Rishonim 7](#_Toc516077013)

[Machlokes Achronim 8](#_Toc516077014)

[S”A vs. Rama 8](#_Toc516077015)

[Minchas Chinuch’s Chiddush: Rishus 9](#_Toc516077016)

[Leka Achair 10](#_Toc516077017)

[(1) Expert, Parents Desire 10](#_Toc516077018)

[(2) Tircha Yisarah 10](#_Toc516077019)

[(2) Financial Considerations 10](#_Toc516077020)

[Conclusion of Psak 12](#_Toc516077021)

[In-law 13](#_Toc516077022)

[Rav Schachtar’s recommendation 13](#_Toc516077023)

# The Shaylah: Doctors Treating Parents

A parent, who’s not well, has to go through many injections to get healed. So there are two options: either I can send the parent to a hospital or clinical two or three days a week to get the injection, or because I know medicine a little bit, so I can give the injections myself.

So the Shaylah is- Am I allowed to take care of medical needs of my own parents? You’ll ask, isn’t it kibbud Av v’aim, of course I can do it. So it true, that if my father need assistance in putting an Ace bandage on his or her foot or needs a new pair of glasses, so of course it’s a Mitzvah of Kibbud Av v’aim for me to help. The question is here, where you might cause the mother or father to bleed, is that going to be something permissible or not.

# Issur of Chovel biChavero

Let’s begin the sugyah with looking into the Halacha regarding causing anyone to bleed, causing a Chaburah or Hakaah on any one in klal Yisroel. And then we’ll get to the Halacha LiMaseh with regards to doing the Refuah of a parent.

## Source: Passuk of Lo Yosif

The pessukim in **Parshs Ki Taytzei** describe someone who did something wrong, he did an Aveirah, and received Hasraah, and he said even so, Ani Oseh, I am going to do it either way. So the punishment is that he gets malkus. Now the person is getting malkus, the Shaliach Bais Din are sitting there, hitting him, and the pasuk says you have to be careful when hitting him. Says ***Paasuk ג, in Perek כה:*** “Arbaim Ya’akenu”- you are only allowed to hit him, literally, 40 Malku. “Lo Yosif,”- make sure you don’t add even one more hit than 40 lashes, and we know chazal says its only 39 Malkus.” ……”- Pen Yosif LiHakoso- Meaning don’t add more than 39 lashes lest you be Ovair the issur of Lo yosif.

### Administering Malkus Kifi Kocho

Says the **Rambam**, when he talks about this Halacha in **Hilchos Sanhedrin**, and its in Hilchos Sanhedrin as the Sanhedrin are the ones that administers the malkus The Shaiach Bais din is the one administering the malkus,

and the Rambam here- ***Perek יז’, Halacha א’***- tells us what’s the din.

כיצד מלקין את המחוייב מלקות?- How do we go ahead and administer a punishment of malkus? Says the Rambam- כפי כחו שנאמר כדי רשעתו במספר –not always do we give a person 39 malkus, but it depends on how strong a person is. So if the person is very stong and macho such that he can handle 39 malkus, so we give 39. But the point of the malkus is not to kill the person, but for it to be a punishment, such that you can stay alive afterwards. So therefore, everything has to be Lifi Kocho, depending on how strong a person is.

Continues the **Rambam**- וזה שנאמר ארבעים שאין מוסיפין על הארבעים אפילו היה חזק ובריא כשמשון- Therefore, all it means when it says Arbaim Yakenu, is that if you have a person who is a macho, who is very strong- you can’t hit him more than 39 times, even though he is going to come out not being hurt at all. אבל פוחתין לחלש שאם יכה לחלש מכה רבה בודאי הוא מת- However, if we have a person is weak, so we give him less than 39 times, because if we were to hit him 39 times, he would not be able to stay alive afterwards.

לפיכך אמרו חכמים שאפילו הבריא ביותר מכין אותו שלשים ותשע- therefore the Rabanan said the most that you can hit a regular person is 39 times, and that’s what the Torah tells you is the limit. But you would hit less, if the person is very weak.

### Lav of Lo Yosif

The **Gemara Makos** tells us that the malkus goes in sets of three and that we are Omaid- we make an evaluation if the person can handle another set of three malkus or not. If we think he can’t handle another three- so we stop right there, and he gets off with all three of them.

So imagine the scene we have a doctor who is sitting there and says I think he can handle the next three. The Shaliach Bais din goes ahead with the doctors orders, hits the guy another three times and he passes out, so he dies. So what happens now?

Says the Gemara, brought down by the **Rambam** also in ***Hilchos Sanhedrin, Perek טז,’ Halacha יב’***:

מת תחת ידו 🡪 פטור- if the guy dies even though the doctor told me to hit him and I did everything according to his instructions, and the guy still dies any way- so I am patur, and am not considered a Rotzayach. However- ואם הוסיף רצועה אחת על האומד - lets say the doctor says he can’t handle another three and you go ahead and you hit him anyway- not that you went over 39, but you went over 29, where the doctor said he can handle only 29, and you gave him 30. הרי החזן גולה- the Chazan, the Shaliach bais din has to go the Galus, because he is considered a Rotzayach BiShogaig.

ואם לא מת - But if the person does not die, but I give him 40 malkus, I give him 1 extra lash than he is supposed to get- הרי החזן עבר על מצות לא תעשה שנאמר לא יוסיף- The Shaliach Bais Din is Ovair the Lav of Lo Yosif.

The Rambam is telling us you have to make sure to give the proper amount of malkus, but he continues- that not only do we assume that a Shaliach Bais Din cannot hit more than 39 times, but והוא הדין לכל מכה את חבירו שהוא בלא תעשה”- anybody who hits a fellow Jew, that he hits somebody else- is ovair a Lav.

The **Minchas Chinuch** points out that this is whether one makes a Chaburah or does not make a Chaburah, whether he makes a black and blue mark, or just stam hits the person- you are going to violate this issur of Lo Yosif LiHaKosos.

“ומה” - says the Rambam, ומה אם זה שנתנה תורה רשות להכותו - the Torah tells me to go and hit the Rasha, go ahead and give him malkus, and still “צוה הכתוב שלא להכותו על רשעו - the Torah commands to makes sure to not give one extra- קל וחומר לשאר כל האדם– Kal v’Chomair to everybody else, to a person who didn’t do anything wrong, and you are going to hit him anyway, says the Rambam, you are going to violate the issur of Lo Yosif.

The **Rambam** is telling us we have a Shaliach bais din who is giving malkus, and the Passuk tells us, Pen Yosif, you are not allowed to add on to the malkus more than he deserves, and from here the Rambam says that we have a Kal v’Chomair that you are not allowed to hit anybody else. And says the Minchas Chinuch that this is whether you cause him a black and blue mark or not.

## Lo Yosif Applies to All Jews

If you then look at the **Rambam** in ***Hilchos Chovail HaMazik***, when he talks about hitting a fellow Jew- he fleshes out again, ***Perek ה’, Halacha א’***: אסור לאדם לחבול בין בעצמו בין בחבירו- that you are not allowed to hit yourself or inflict pain on anybody else; ולא החובל בלבד אלא כל המכה אדם כשר מישראל בין קטן בין גדול בין איש בין אשה- it doesn’t matter what kind of person it is, if you go ahead and hit another person or hurt him; דרך נציון- Derech Nitzayon, and some Girsahs have it as Derech Bizayon- either I hit someone through a fight or through a bizayon- for example that one slaps the person; הרי זה עובר בלא תעשה, שנ' (דברים כ"ה ג') "לא יוסיף להכותו," אם הזהירה תורה שלא להוסיף בהכאת החוטא קל וחומר למכה את הצדיק.

### Derech Nitzayon: Cosmetic Surgery

This is also an important Halacha as from these extra words of Derech Nitzayon or Derech Bizayon that the Rambam sticks in, **Rav Moshe** says according to the Rambam maybe you are only going to violate the issur if you do it in one of these two fashions, either you are doing it to embarrass the person or you are doing it because you are in a fight with the person and you can’t contain your anger so you go ahead and hit him.

But let’s say you are a doctor and want to perform cosmetic surgery- not where it is a Sakanah- still I am allowed to do it, as I am not allowed to stam let myself bleed. So that’s what the Rambam is pointing out here, says Rav Moshe, that it is only an issur if it is Derech Bizayon or Dereck Nitzayon. Thus, a doctor who is doing the cosmetic surgery is not at all being Mivazeh the person, but to the contrary, he is doing it to make the person look better. Therefore, Rav Moshe says perhaps a person has the right to choose to have an optional cosmetic surgery because that is not Derech Bizayoon or Nitzayon, and is thus not under the issur of Assur אסור לאדם להכות בעצמו או בחבירו.

We therefore have this Halcha that the **Rambam** tells us- אסור לאדם להכות אדם אחר בישראל, which we learn out from the pasuk of לא יוסיף להכותו, which is written by the Shaliach Bais Din giving Malkus.

## Differences Regarding One’s Parent

With regards to Aviv v’Imo, you’ll say it’s the same thing- well, my parents are part of the Jewish people, so the same way I am not allowed to hit anybody else, I am not allowed to hit my parents. Says the passuk in **Parshas Mishpatim, Perek כא,’ Paasuk טו’**: that yes this is true, but its even more- ומכה אביו ואמו מות יומת.

### (1) Punishable by Death

When we looked at the Rambam he never says one gets the death penalty for hitting a fellow member of Klal Yisroel, but rather one is simply Ovair the Lav of Lo Yosif, but if you hit your parents- it is more Chamur- you are going to be violating an issur that is punishable by Chenek.

The **Rambam** in **Hilchos Mamrim, Perek ה’, Halacha ה,’** says המכה אביו ואמו מיתתו בחנק שנאמר מכה אביו ואמו מות יומת -that one who hits his parents is Chayiv Chenek. And as the **Rambam** says in **Hlishos Sanhedrin, Perek טו’, Halacha יג’**, there are 6 people who are punishable with Chenek, with the third one on the list being one who his Makeh Aviv v’Imo.

But continues the **Rambam** in Hilchos Mamrim- , וצריך עדים והתראה כשאר כל מחוייבי מיתת בית דין, -this is the same as any other Misas Bais Din, such that he can only be chayiv if he receives the proper Hasraah and there are Eidim. ואחד האיש ואחד האשה וכן הטומטום ואנדרוגינוס והוא שיגיעו לכלל עונשין - We assume also that the person has to be a Bar Onshin to be chayiv with Chenek. Obviously if a Kattan, if a little kid has a tantrum and he hits and scratches his parent- that this would not be included and there would be no chiyuv chenek.

### (2) Requirement of a Chaburah

Points out the **Rambam**, further- אינו חייב חנק עד שיעשה בהן חבורה - that the only time one would be Chayiv Chenek for violating the issur of Makeh Aviv v’Imo is if he makes a Chaburah. אבל אם לא עשה בהן חבורה הרי זה כמכה אחד מישראל – But if he doesn’t cause a Chaburah, its like hitting any other Yid.

The Rambam contrasts hitting one’s parents to hitting other people, with there being two major differences: (#1) hitting other people is a only Lav, while hitting one’s parents is punishable with Chenek and (#2 difference) is by hitting other people one is chayiv even without causing a Chaburah, while one is only going to violate Makeh Aviv v’Imo if he makes a black and blue mark- as we said earlier, this is pointed out by the Minchas Chinuch.[[1]](#footnote-1)

So far we know there is a Din that you are not allowed to be Makeh Chavero BiYisrael, and you will be punished whether you make a Chabura or not. We have a second issur which is you are not allowed to hit Aviv v’Imo and you would be Chayiv Chenek if you violate that issur. Bu the issur is only if you cause them to have some sort of Chaburah.

# Treating One’s Parents

Now we get to our question, what is the Halacha regarding a person doing a dental or medical procedure on a parent? What would you say?

## Gemara: The Question of Drawing a Parent’s Blood

We have the **Gemara Sanhedrin פד:**. The Gemara has a Shaylah- דאיבעיא להו: בן מהו שיקיז דם לאביו? - is a child allowed to be Makiz Dam Li’Aviv- they used to think this was medical procedure that was very healthy to do every so often, to go ahead and do blood-letting. So what’s the din?

Can a parent- instead of having to shlep to the Heights to the YU blood drive- simply have his son who is a paramedic, go ahead and draw blood on his behalf in the house, and not have to shlep somewhere else?

Says the Gemara, **רב מתנא** אמר: ואהבת לרעך כמוך – Everyone would wasn’t someone so kind to do blood letting for them. And here my father wants me to do so. So not only is it permitted, but says Rav Masna it’s a Mitzvah of v’Ahavata LiReicha Kamocha to do so for your parent.

In other words, the only time Makeh Av v’Imo is going to be Chayiv is when I am trying to hurt them. But over here, where my parents ask me to help them out, of course I would be allowed to do so.

And then, **רב דימי בר חיננא** אמר - Rav Dimi answers with another Drasha-מכה אדם ומכה בהמה, מה מכה בהמה לרפואה פטור - אף מכה אדם לרפואה פטור. Just as when it comes to healing an animal, any injury that is necessary for me to do would be mutar and I would not be chayiv, the same is true by Makeh Adam- that if it is healing, it is not called Makeh and would be permitted.

We have, therefore, two Amoraim telling us why the child would be allowed to do the medical procedure on the parent.

The Gemara, however, continues— **רב [ג"א רב פפא]** לא שביק לבריה למישקל ליה סילוא- When Rav used to get a splinter in his foot, he wouldn’t allow his son take the splinter out. Why not? Didn’t we just have two amoraim that allowed a child to perform a medical procedure- saying it was not included in Makeh Aviv v’Imo?! And since it hurts the parent to have the splinter in, v’Ahavta LiRayicha Kamocha should dictate that I should take it out if he asks me.

**מר בריה דרבינא** לא שביק לבריה למיפתח ליה כוותא- He also didn’t let his son do a medical procedure- of opening a boil- דילמא חביל, והוה ליה שגגת איסור. - as maybe his son will cause him to bleed, and therefore his son will violate the issur of Makeh Aviv v’Imo.

So we have stirah here: first the Gemara brings two pesukim telling me its mutar, then the Gemara brings two stories that say that it is assur.

Asks the Gemara, “Iy Hachi, Achair Nami”:

If I am concerned that taking a splinter out will make somebody bleed- and that why I can’t do it for my parent; so then I shouldn’t be allowed to do it for anybody else either, as there is a din Makeh Adam biYisrael is Chayiv. Ain Hachi Nami- you wouldn’t be punished with Chenek, but you would be Chayiv a Lav. So why do we assume a doctor would be able to help anybody? He seemingly is being ovair Makeh Adam biYisrael?

Answers the Gemara- אחר - שיגגת לאו, בנו - שגגת חנק - Meaning- if a regular person walks in to a doctors office with a splinter, the worst I am going to violate is a Lav if he bleeds; but if my parent walks in for treatment, there’s the possibility of violating an issur punishable by Chenek.

Nonetheless, we don’t generally allow one to violate a Lav, We don’t think Lavin aren’t important simply because they aren’t punishable by Misa- so what’s going on?

So the Rishonim explain MayIkar Ha din one is allowed to perform a procedure, such as taking out a splinter, even if that means the patient will bleed- as the pasuk gives a doctors the license to do so where it is necessary, as it says “v’Rapoh Yirapeh.” But, we are afraid while you are doing the procedure you are going to make the person bleed one an extra drop more than he or she has to- and then you are going to violate the issur. However, since there isn’t so much on the line so therefore a doctor is allowed by a regular person. But by a parent, where there is more on the line, that by taking out one extra ounce of blood it is a Shigigas Chenek. So we say one should stay away from parents.

In the end of the day, we have a Gemara that brings two pesukim that say you are allowed to treat the parent, and then it brings two stories that say you are not allowed to treat the parent.

## Machlokes Rishonim

So there is Machlokes Rishonim regarding what is the Maskanas HaGemara. Are the latter two Amoraim, Rav and Mar Bereih Diravinah, arguing on the former Amoraim, Rav Masna and Rav Dimi. Or are they all in agreement but are either simply being machmir or are talking about different scenarios.

The **Bais Yosef** quotes the **Rif** and the **Rosh**, explaining that they understand that the two sets of Amoraim are in disagreement. Accordingly, the Rif and Rosh simply quote the two latter Amoraim and their stories, paskening like the maskanah of the Gemara- that a child would not be allowed to perform a medical procedure on his parents, as maybe he will cause them to bleed a little bit more. And because of Shigias chenek, we don’t want one to get involved in a Shaylah.

On the other hand, the **Rambam** in ***Hilchos Mamrim, Perek ה,’ Halacha ז,’*** appears to understand that Mayikar HaDin everyone agrees it is permitted, as we have two pesukim that say it is mutar. And regarding the two stories that say it is assur- those Amoraim were simply being Machmir in order not to be involved in a Shaylah. Therefore, because other people besides their sons could treat them- they didn’t allow their son. But says the B”Y, in explaining the Rambam, if there no one else was available so then even Rav and Mar bereih DiRaavinah would have allowed their sons to treat them.

Accordingly, the Rambam says that Lichatchilah a child should not do the procedure, we should be Machmir, but that’s specifically when Ika Achair, when another person is available. But when Leika Achair- when there is no one else to do it, so then the son can treat the parent- as MayIkar HaDin it is permitted.

The **Ramban** also suggests that that the Amoraim are not arguing with one another, but were simply talking about different cases. The Ramban comes to this understanding as he is bothered by the two stories, because if it is true that we are concerned of the son violating an issur punishable by Misa, so how is any doctor allowed to operate on a patient. Maybe he may kill the patient- violating an issur punishable with the death penalty of Sayif?

Therefore, explains the Ramban, beautifully, that when it comes to a procedure that presents a Sakanas Nefashos to the patient- so the Torah gave a doctor jurisdiction to operate, and there would be no difference between having a son operate on his parent in such a case or to have another doctor do it- because if either messes up and kills the patient, there is a Shigias Misa- either Sayif or Chenek. And so explains the Rambam is the first case of the Gemara regarding being Makiz Dam of the parent and is why both amoraim are matir a son, as he is no worse than any one else.

But in a case where the procedure is not one of Sakanas Nefashos, but simply carries with it the concern of causing an injury beyond what is necessary- so then there is a difference between the son and doctor. As for a regular doctor there is only a shigigas issur, while for the son there is a Shigigas Chenek- a penalty of death is on line. Thus, in such a case, where another person can treat the parent instead, we are machmir and do not allow the son treat the parent. And this is why the latter Amoraim were Machmir, as the cases of taking out a splinter or piercing the boil did not present did present a Shigigas Chenek for the son, but only a Shigias Issur for a regular doctor as the procedure was not one of Sekanas Nefashos.

It is, therefore a Machlokes Rishonim, the Rif and the Rosh vs the Rambam and the Ramban, as to what is the Maskanas HaGemara, whether prohibiting a child from treating a parent is MayIkar haDin or is it simply a chumrah.

## Machlokes Achronim

So how do we pasken Halacha LiMaaseh?

### S”A vs. Rama

The Shulchan Aruch and Rama have a Machlokes LiHalacha.

The **Michabair** in ***Siman רמ"א*** writes that a parent can never be treated by a child even if there is nobody else to help him. Therefore, in a situation where the parent has a splinter in his foot and he wants to get it out, Says the Michabair like the Rif and the Rosh- that even- Leka Achair- where the son is the only doctor in the town- still we would assume the child would not be allowed to do it.

The **Rama** argues, paskening that Iy Iyka Achair- where there is another dentist in town, so go use the other doctor. Iy Leka Achair- so then he can have his child do the procedure.

It comes out that the Rama is paskening like the Rambam and the S”A is paskening against the Rambam. However, the **Michabair** explains in the Bais Yosef that he is not going against his Klalim as understands that the Rif and Rosh are arguing on the Rambam. So though the S”A normally paskins like the Rambam, here- since its two against three, namely the Rif and Rosh vs the Rambam, he sides with the majority ruling.

The **Bach**, on the other hand, understands that the Rif and Rosh are not arguing on the Rambam, but would also agree to the qualification of the Rambam, that if there is nobody else- the child would be permitted. The Bach is midayaik from the fact that the Tur simply quotes the lashon of the Rambam- containing the distinction of Achair- but goes without mentioning his father, the Rosh’s shita. Therefore explains the Bach that it must be that the Rosh and Rambam are not in disagreement, but the Rosh and Ran agree when Leika Achair, it would be mutar for a child.

Similar to the Bach’s approach, the **Ben Ish Chai**, as explained by the Nishmas Avraham, believes there is no Machlokes between the Shulchan Aruch and the Rama. Rather, the Rama is simply coming to explain the shita of the Shulchan Aruch. Thus, it would come out that both the S”A and Rama would permit a child to treat his parent if Leika Achair.

Nonetheless, most Achronim, incuding Rav Ovadyah Yosef, understand that the S”A does not line up with the Rama, and would prohibit a child even in case of Leika Achiar. The Rama, however, permits a child in a case of Leika Achair

Therefore, Heter #1 is the Rama that we pasken like the Rambam that when it is Ain Sham Achair- there is no one else available, the son is allowed to do it.

### Minchas Chinuch’s Chiddush: Rishus

Then there is a second potential Heter that appears in the Minchas Chinuch, Mitzvah מח.

The **Minchas Chinuch** has a tremendous Chiddush regarding this Sugyah. He writes “Lifi Anias dati…” This that the Torah says I am not allowed to hit a parent- this is where the parent didn’t give me permission to hit them. But where one’s father or mother asks me to please go ahead and do this procedure on me or hit me, so we assume you are allowed to.

The obvious question, however on the Minchas Chinuch is that this doesn’t seem pshat in the Gemara. The whole question is Ben Mahu She’YAkiz Dam? Are we simply assuming the son went over and pricked his father, without giving permission. Rather, the Minchas Chinuch has to explain the case as being that maybe the son will cause a larger Chabaurah, on which the father would not be Mochel on. But where the parent asks for the child to do the procedure and is fully Mochel- a child would be permitted.

The Minchas Chinuch brings a support from the Rambam, in Hilchos Sanhedrin, Perek כו, Halacha ו'- that states that even though a Nasii and Dayan can be Mochel on his Kavod, where the person already cursed on of them- it doesn’t help. But says the Minchas Chinuch, the reason they couldn’t be Mochel is because the person already did the act. But had they been Mochel first – the Mechilah would have worked.

The **Achronim** find much issue with the Minchas Chinuch. First, they ask on him from the Gemara Sanhedrin as pashut pshat the case of the Gemara is where the parent invites the child and gives him permission to do the procedure, and still the Gemara has the Shaylah.

Secondly, the idea that a parent can simply be Mochel is not a widey accepted opinion. The Shiltos in Siman סא', explains that when the Gemara Kiddushin says a father can be Mochel on his Kavod, that is specifically in regards to his Kavod, but when it comes to הכאתו וקללתו- hitting or cursing the father, on such a parent can’t be Mochel.

Thirdly, Minchas chinuch seems to go against the Rambam- as the Rambam says when Leika Acachir, when there is no other person available and the parent gives permission, then the son can remove a splinter. But he implies this is only because no one else is available and its LiTorech Refuah- otherwise permission alone would not sufficient.

So the Minchas Chinuch is a big Chiddush and is generally not accepted. However, there are those, including Rav Shlomo Zalman who do use the Shita of the Minchas Chinuch as a Tznif LiHakel.

## Leka Achair

The other heter that we mentioned was that of the Rama, that b’Leika Achair, when no one else is availaible it is mutar.

The question is how do we define Leka Achair- that no one else is available? As there always is someone else, some other doctor who is available.

So the Achronim discuss several situations as to whether they are called Leika Achair.

### (1) Expert, Parents Desire

One case is brought by the **Aruch HaShulchan**, in ***Siman רמ"א, Siif 6***. He quotes the Lashon of the Rambam, holding of the distinction of Achair, but adds one final line. Says the Aruch Hashulchan- וכן אם הוא עושה בטוב יותר מאחר ואביו חפץ בו יכול לעשות. That if the son will do a better job than somebody else, then here too the son would be allowed to treat a parent. And presumably it is because this is also considered Leike Achair, as there isn’t somebody else to do as good of a job as the son.

The Chelkas Yaakov takes this Heter one step further by explaining that this does not only apply when the son is objectively a better doctor, but even where subjectively, such as where the parent simply believes the son will be do the best job treating him- we consider it as if there is no one else, - with the Chelkas Yakov stating that its as if אין כלל מציאות של אחר.

###  (2) Tircha Yisarah

A second case discussed as to whether it is equivalent to Leika Achair is what if the parent trusts all the doctors- no one is better than another, but it’s simply a schlep for him to drive to the dental clinic. Or in case a where a parent has to receive weekly injections and it’s a pain to have to drive each week to the city to see the doctor at the medical clinic, where instead the parent can just have his son give him the injection at home- Do we call this Leka Achair just because it’s a pain in the neck to travel to the clinic?

Says the **Minchas Yitzachak**, as well as **Rav Shlomo Zalman**,if there is a Tircha Yisarah to receive a frequent medical treatment, so then it too would be considered Leka Achair and would be no problem.

### (2) Financial Considerations

But what if there is someone else readily available and he is as qualified as your son who is a doctor, but that someone else charges money and the son is not going to do it for free.

To make the case even more shayich- Let’s say I was the dentist and my parents- which they have been telling me my whole life- would be able to come to me for free to have all their dental work done, or the second option being that they can go to another dentist who is going to charge a fortune to put in fillings and implants. Is that called Leka Achair?

So says **Rav Michael Yichaiel Tukechinsky** in the ***Gesher haChaim Chelek ב, Perek א'*** that well, as far as my parents are concerned, they don’t see another option, they don’t want to pay somebody else to do the work. So as far as they are concerned you are the only doctor and that is Leka Achair; and therefore says Rav Tukechinsky, in a case like that of course a child is allowed to go and take care of the parent.

The **Gesher haChaim** writes that he had this Chiddush- That if you have to go to another dentist who will charge you a lot of money that it is called Leka Achair. However, Rav Tukechinsky was not so convinced about his own chidush so he sent it out to three three Geonei Yerushalaim of the time.

It’s interesting what he writes- he writes that he got responses from three Rebbeim, two of which are from שני המאורות הגדולים המאירים לארץ- from HaGaon Rav Yitzchak Herzog, HaRav HaRoshi LiEretz Yisroel, and from R**av Tzvi Pesach Frank.** And the third response that I got is מכוכב הנוגה החדש- from a rising star that no one knows about- **Rav Shlomo Zalman Aurbach**.

And in fact **Rav Shlomo Zalman** agrees with the assessment and Chiddush of the Gesher HaChaim, that where the other doctor is charging a large sum, the son would be permitted to treat the parent, as it is considered Leika Achair. He also bring support for this from the **Sefer Yafeh Lev**, who has the same Heter.

**Rav Moshe Feinstein** is also quoted in the ***Sefer Mesoras Moshe,*** written by Rav Mordechai Tendler, as applying this Heter. In fact, he deals with our exact question- can a son who is a dentist treat a parent if the other option is going to another dentist who will charge a large sum of money. There, he Paskens that it would be Mutar- as its deemed Leika Achair.

**Rav Tzvi Pesach Frank**, on the other hand, disagrees with this Chiddush of the Gesher HaChayim and therefore when he reprinted his own Teshuva in the Har Tzvi, he didn’t write to whom he wrote the response- as he attacks the Gesher HaChayim.

**Rav Tzvi Pesach Frank** writes that in the case of a doctor or dentist, MayIkar HaDin the son should treat a parent himself and fulfill the Mitzvah of Kibbud. But the problem is that if he does it himself so there is a concern of Shigigas Chenek, and he might violate an issur. Therefore, having the parent go to another dentist- is in order to save the child, and therefore that money that is being shelled out is not for the Mitzvah of Kibbud but is for the son’s benefit, to distance himself from violating an issur for which a son would have an obligation to pay in order not to be Oviar. Therefore, he says this would not be considered Leika Achair.

**Rav Tzvi Pesach Frank** is michadaish, quoting the following story:

There was once a Yid by Brisk, by **Rav Chaim**, and his parents were in Warsaw. And his father was on his death bed, and he sent a letter to his son that he wants him to come visit him. But he didn’t send hima train ticket. So the boy comes into the Yeshiva, and asks Rav Chaim- what should I do? Kibud Av is Mishel Av v’Lo Mishel Ben- I should be not Michuyav to pay.

So Rav Chaim said you are right; he didn’t send you a ticket, you are michayiv to walk. Ay, your going to ruin your shoe, and your feet are going to hurt because you have a long way to walk- ok- so you buying a train ticket is then to save yourself, not to be Michabaid your parents- but to be Michabaid yourself in order not to ruin your shoes. Thus, Says Rav Chaim you are Michuyav to pay for the train ticket, because really MayIkar HaDin you are required to walk; so you decide not to walk, so you pain for your own ticket, and your father is not Michuyav to pay.

Said Rav Tzvi Pesach Frank-you have a dentist, I am going to treat my parents for free, if my parents go to the other dentist they are going to be charged. Mishel Av, v’Lo Mishel Ben

Really MayIkar HaDin the parents are allowed to come to you- as the two pesukim treat. But why do we say the parents shouldn’t come- because you the son may violate an issur by hurting your parents more than you have to. So you are trying to save money on whose account- yours or theirs? You are trying to save your own skin by sending them to another dentist in order to not violate the issur, so who should pay for that bill- the parents or you- you! And the S”A paskins in Y”D – a person is michuyav to give\_\_\_\_ Baiso in order not to violate a Lav. So therefore he says, really Mayikar HaDin, you should treat them, beacuae as far as the parents are concerned you are allowed to treat them and they should get the treatment for free. But you want to save yourself and not treat them, as maybe you will cause a Chavalah, you are going to violate Makeh Aviv v’imo Says Rav Frank so you pay for the doctor bill for them to go to somebody else. And that is not called Leka Achair, but that’s called iyka Achair- as there is somebody else. And who has to pay for it- you have to pay for it.

## Conclusion of Psak

Limaasheh, the **Rama** agrees that Lichatchila a child should not treat a parent. Therefore the best thing to do is if you have a friend who is a doctor or a dentist, so send your parent to them. But let’s say you don’t have this option- you cant set up such a deal, so then you get into this whole discussion of how far do we consider Leka Achair?

Heter #1, says the Aruch Shulchan that if your son is more qualified than other doctor, we call this Leika Achair and it would be mutar.

Heter #2, the Minchas Yitzchak as well as Rav Shlomo Zalman hold that that if there is a Tircha Yisarah, such as having to go to a clinic and wait in line each week- which is certainly annoying- so that to is called leka Achair, as it is unreasonable to assume a person will do that.

And Heter #3, regarding paying money, that is the machlokes between Rav Tzvi Pesach Frank and the Gesher haChayim.

And Rav Shlomo Zalman agrees to this Heter, and uses it together with the Chiddush ff the Minchas Chinush as a Tznifim Lihakel- who himself had the wild chiddush that the violation of Makeh Aviv v’Imo does not apply when the parent is Mochel beforehand.

### In-law

What is the story by in- laws? Would you say the same Halacha by parents applies to in-laws or would you say in-laws are different? So lets go back to the reason of the Gemara- that the whole reason one has to be more machmir by a parent than by a regular persosn is because by a regular parent there is only a concern for a Lav, but by a parent it is Shigias chenek, there is more on the line. So what about one’s in-laws?

So we have a din that we have to be michabaid our parents and be Michabaid our in-laws. But the din of Makeh Aviv v’imo does not apply to one’s in-laws. Rather, our in-laws would be like a regular Adam bi’Yisrael- so we go back to the original Din. Thus, regarding in-laws, all this would not apply, as it would be considered a regular doctor treating a regular patient. And obviously if the in law is going to be more comfortable going to you and having you do the treatment for them, and doing this will save them a lot of time, a lot money and a lot of headache- so obviously would not be a shaylah. Rather when it comes to a parent, is when we have this whole discussion because of shigigas Chenek, that there is more on the line, as maybe I’lll violate an issur that is chamuros. While when it comes to an in-law much of this discussion does not apply.

### Rav Schachter’s recommendation

If I am a dentist and he has a friend who is a dentist, so they should make a deal to work on each other’s parent’s- they should set up a deal.

1. The Rambam in his Sefer HaMitzvos lists these issurim as two separate Lavim. Ask the Ramban in his Hasagos- where did we learn that it is assur to hit one’s parents, says the Mishinta- Minayin- mei Arbaim Yakenu. It’s the same pasuk and Lav for hitting a fellow Jew, so how can the Rambam list this as two separate Lavinm- it’s the same Azharah? Rav Schachter discusses this in Ginas Egoz p.26. When the Rambam explains both issurim, he counts them as two separate Lavim because one of them will be considered Kal, while the other will be considered Chamur. [↑](#footnote-ref-1)