

Is Metzitzta bePeh Dangerous?

By Daniel S. Berman, M.D.*

It has been more than seven years since the reports broke out in the media that the *Metzitzta bePeh* (hereinafter, *MbP*) part of the ritual of Jewish circumcision caused Herpes simplex infection in babies. This became a topic of great concern and much discussion in the Jewish community. One baby tragically died of neonatal (within six weeks of birth) Herpes simplex infection following a Bris which included *MbP*. Also, around this time, a controversial article was published in the journal *Pediatrics*,¹ which claimed to prove that *MbP* was a direct cause of Herpes simplex infection in babies. All of this prompted action by the New York City Department of Health and the New York State Department of Health against one particular Mohel, who had been linked to three cases of Herpes simplex infection. Although

* I would like to acknowledge the assistance of my son, Gabi, and Jonathan Grossman in the editing of this article.

1. Gesundheit, B., Grisaru-Soen, G., et al., "Neonatal genital Herpes simplex virus type 1 infection after Jewish ritual circumcision: Modern medicine and religious tradition," *Pediatrics*. 2004;114(2):259-263.

neither government agency attempted to ban the practice of *MbP*, the New York City Department of Health sent “educational” material to the Jewish communities, warning of the dangers of *MbP* and discouraging its practice.

What are the facts relating to the safety of *MbP*? Should *MbP* be done? Has the government been fair in its actions? What is our *Mesorah* (tradition) regarding the practice? As an infectious-disease specialist, I have been asked my opinion many times about the matter and I have been present in meetings with both the City and State Departments of Health.

The only potential health hazard which has been associated with *MbP* in the past 50 years has been Herpes simplex infection. In the 150 years prior to that, there were other infectious diseases possibly associated with *MbP*. These are thoroughly outlined in Dr. Shlomo Sprecher’s well-researched article on *MbP* published in the journal *Hakirah* in 2006.² In it, he reports on the purported transmission of syphilis through *MbP*, which supposedly killed many babies in Krakow in the 19th century. There were other reports of transmission of syphilis with resulting deaths. He also writes about the notorious outbreak of “incurable rashes on the *brit milah*” linked to one Mohel in Vienna. This led to an inquiry in 1837 from Rabbi Elazar Horowitz to the Chasam Sofer about the correct halachic response. The Chasam Sofer, in a celebrated letter,³ which has been promoted as a major rabbinic responsum recommending that *MbP* not be done, suggested in this particular case that gauze be used, provided that physicians were sure that the same suctioning effect could be achieved. Finally, in 1946, there was a review of cases of tuberculosis associated with *MbP*. The matter was quiet until 2003, when the reports linking Herpes simplex to *MbP* began to emerge.

First of all, it is difficult to draw valid conclusions from medical reports from the past. For one, it is impossible to check on the reliability and motivations of the authors. However, even if they were accepted as

2. Sprecher, S., “Mezizah be-Peh: Therapeutic touch or Hippocratic vestige?”; *Hakirah: the Flatbush Journal of Jewish Law and Thought*, 2006;3:15-66

3. This letter of the Chasam Sofer is not found among his printed responsa. However, the entire text of the letter can be found in Rabbi Moshe Pirutinsky, *Sefer haBris*, 1973, page 216.

reliable, these old reports have no relevance to the question of the safety of *MbP* at present.

With regard to syphilis, which is a sexually-transmitted disease, there have been no reports of syphilis being transmitted through *MbP* in many years. Furthermore, it seems absurd to suspect that the Mohelim in the communities that are doing *MbP* today would have syphilis in their mouths. Accordingly, the likelihood of transmission of syphilis through *MbP* today is highly remote.

Concerning the outbreak of “incurable rashes,” there is no indication that this was directly related to *MbP*. Although in his letter Rabbi Horowitz comments that the doctors attributed the fatal infection to *MbP*, we cannot know if that is true. Perhaps it was related to contaminated surgical equipment. Logically speaking, if these reported rashes were brought as a reason to halt the practice of *MbP*, they also could be presented as part of an argument to stop Bris Milah itself from being done. That would be a frightening suggestion. The fact that there were no further problems after this Viennese Mohel stopped *MbP* does not prove anything, unless it could be established that nothing else was changed in the way that this Mohel did Bris Milah. It is possible that in addition to stopping the use of *MbP*, he also changed or cleaned his surgical equipment. These critical details are apparently unknown.

As to tuberculosis, there have been no reports of any association of this disease with *MbP* since 1946. Obviously, before the days of effective treatment for tuberculosis, it was a common illness. Fortunately, its incidence in the Orthodox Jewish community today is extremely low. There is now no reason to be concerned about the possibility of transmission of tuberculosis through *MbP*. In addition, if there were an association between tuberculosis transmission and *MbP*, this would not be a sufficient reason to ban the practice of *MbP* across the board. After all, if a schoolteacher had active tuberculosis, we would certainly not allow him to teach young children. However, we would not say that there should be no more schools for young children. The more logical recommendation would be to not allow the infected teacher to be at work. In the same way, any Mohel with an active infection, with a risk of transmission, should not be performing *MbP*.

This brings us to today's question of the potential transmission of Herpes simplex through *MbP*. It should first be noted that other than for Herpes simplex, while there have been rumors and suggestions of other kinds of infections being spread by *MbP*, there have been no cases reported of transmission of any other kind of viral illness, including HIV, hepatitis B, or hepatitis C. In addition, although one would envision the possibility of bacterial infection, with the mouth of the Mohel coming into contact with an open wound, there have been no reports of bacterial infection associated with *MbP*. If Herpes simplex is, in fact, associated with transmission through *MbP*, it would be the only infectious agent which is now being transmitted in that fashion.

Let us take a closer look at the possible transmission of Herpes simplex through *MbP*. To give some background about Herpes simplex, there are two related viruses within the family of Herpes simplex. Herpes simplex 1 is an infection that is generally associated with oral infections. In its primary form, it can cause a severe, painful disease associated with multiple ulcerations in the mouth. The reactivation phase of infection generally occurs on the lip. This will manifest itself as what is generally called a "cold sore" or "fever blister." Some people suffer from the reactivation phase at varying intervals, often stimulated by illness or sun exposure. Others will never have any reactivation after a primary infection.

Herpes simplex 2 is generally associated with genital infection. It also has a primary phase, as well as a reactivation phase. There is some overlap in the clinical manifestations of Herpes simplex 1 and 2.

Herpes simplex infection associated with cold sores has been around for 2000 years. Cold sores (Herpes febrilis) were described by the Roman physician Herodotus in the year 100 of the Common Era. It has a worldwide distribution.⁴

Herpes simplex virus has been associated with "asymptomatic shedding." This means that the virus can be detected even when there are no visible lesions. The rate of asymptomatic shedding has been estimated to be around 5% of those who are known to be infected with Herpes simplex,

4. Mandel, G.L., Dolin, R., and Bennett, J.E., *Principles and Practice of Infectious Diseases*, 7th ed., Churchill Livingstone, 2009:chap.136

which would mean that on random sampling of oral secretions, 5% of the time Herpes simplex will be found.^{5 6 7} The proposed mechanism of transmission of Herpes simplex through *MbP* is that the Mohel transmits the virus through this “asymptomatic shedding.”

Infection with Herpes simplex 1 is common. 90% of adults have antibodies to Herpes simplex 1, which indicates past infection. It is also known that the rate of infection is far greater in lower socioeconomic groups, approaching 100%.⁸ It is reasonable to suppose that this higher rate of infection is related to crowded living conditions with more physical contact among family members. The likely route of transmission is from the virus in the mouth to the hands with direct contact, and then passing to another family member.

Neonatal Herpes simplex infection is defined as Herpes simplex infection in infants younger than six weeks. Without treatment, it has a mortality of 65%.⁹ The mortality has been reduced significantly with antiviral treatment, which needs to be initiated extremely early in the course of the infection. Most of these infections are caused by contact with infectious genital secretions of the mother at birth. Some infections have been documented to occur through postnatal contact with healthcare workers or family members who have Herpes simplex 1 infection.^{10 11 12}

5. Knaup, B., Schünemann, S., Wolff, M.H., “Subclinical reactivation of Herpes simplex virus type 1 in the oral cavity,” *Oral Microbiology and Immunology*, 2000;15:281-283.

6. Kameyama, T., Sujaku, C., Yamamoto, S., Hwang, C.B., Shillitoe, E.J., “Shedding of Herpes simplex virus type 1 into saliva,” *Journal of Oral Pathology*, 1988;17:478-481.

7. da Silva, L., Guimaraes, A., Victoria, J., Gomes, C., Gomez, R., “Herpes simplex virus type 1 shedding in the oral cavity of seropositive Patients,” *Oral Diseases*, 2005;11:13-16.

8. See 4.

9. See 4.

10. Linnemann, C.C., Buchman, T.G., Light, I.J., Ballard, J.L., “Transmission of Herpes simplex virus type 1 in a nursery for the newborn,” *Lancet*, 05/06/1978;964-966.

11. Hammerberg, O., Watts, J., Chernesky, M., Luchsinger, I., Rawls, W., “An outbreak of Herpes simplex virus type 1 in an intensive care nursery,” *Pediatric Infectious Disease*, 1983;2(4);290-294.

12. Douglas, J., Schmidt, O., Corey, L., “Acquisition of neonatal Herpes simplex virus type 1 infection from a paternal source contact,” *The Journal of Pediatrics*, 12/1983;908-910.

In the medical literature dealing with transmission of viral infections, DNA fingerprinting evidence is almost always presented as a way of proving that the transmission occurred from a suspected source. This involves matching the DNA found in the virus of the suspected source to that of the new case. For example, in 1990, the Centers for Disease Control (CDC) published a study proving the transmission of HIV from a dentist to five of his patients in Florida.¹³ There was very careful DNA fingerprinting of the patients' and the dentist's HIV strains to determine that they were all one. A 1996 article discussed the transmission of hepatitis B virus to multiple patients from a single surgeon.¹⁴ DNA fingerprinting was used in that case as well to prove that the surgeon was indeed the source. Another study in 1999 proved transmission of HIV from an orthopedic surgeon to a patient in France. Once again, DNA fingerprinting was used.¹⁵

Within the body of literature dealing with the transmission of Herpes simplex, DNA fingerprinting seems to be a basic requirement of any study whose purpose is to demonstrate transmission. There is a case report of a father transmitting Herpes simplex to his son.¹⁶ The case report demonstrated DNA matching of the Herpes simplex lesion that the father later developed with the Herpes simplex virus that infected the baby. There is another published article reporting on an outbreak of Herpes simplex 1 in an intensive-care nursery.¹⁷ There was an index case of a baby with Herpes simplex, and ten days later, three more infants developed Herpes simplex. The four cases had DNA fingerprints of Herpes simplex which matched, indicating that they were all infected with the same virus. Although the original source was not determined, the authors felt that there was a strong

13. "CDC's Investigation of HIV Transmission by a Dentist," September 1992, <http://www.heart-intl.net/HEART/HIV/Comp/DentalTransmissionofAIDSGAOt.pdf>

14. Harpaz, R., Von Seidlein, L., et al., "Transmission of Hepatitis B virus to multiple patients from a surgeon without evidence of inadequate infection control," *The New England Journal of Medicine*, 1996; 334(9):549-560.

15. Lot, F., Segquier, J., et al., "Probable transmission of HIV from an orthopedic surgeon to a patient in France," *Annals of Internal Medicine*, 1999;130(1):1-6

16. See 12.

17. See 11.

possibility that person-to-person transmission to the secondary cases occurred through healthcare workers.

In the literature dealing with possible transmission of Herpes simplex through *MbP*, there is **not a single case** in which DNA fingerprinting is presented as a way of proving transmission. By contrast, it appears that in all the other literature dealing with transmission of a virus, it is difficult to find one that does not report DNA fingerprinting.

Of all the literature claiming that *MbP* has transmitted Herpes simplex infection to babies, the most publicized article is the one that appeared in the journal *Pediatrics* in 2004.¹⁸ This article was authored by ten physicians and two non-physicians with Ph.D.'s. It reported on the collective experience of these physicians covering seven medical centers in Israel and one in Toronto, Canada, over a six-year period from 1997 to 2003. They collected eight cases from "personal communication and experience of the authors." In these cases, the infants developed Herpes simplex on the male organ following a Bris. There were six Mohelim involved. Two Mohelim had two cases each. Only four of the six Mohelim were tested for Herpes simplex antibody, which would be only a starting point to even consider a Mohel as the possible source. All four Mohelim tested had antibodies to Herpes simplex. This is not surprising, as 90% of the adult population has antibodies to Herpes simplex 1. The article does not mention whether it was antibody to Herpes simplex 1 or Herpes simplex 2, which can be measured separately. The authors concede that mouth cultures obtained from the Mohelim were all negative for Herpes simplex virus, although they did not state how many cultures were obtained. (A culture shows the actual presence of virus, in contrast to antibody, which is a protein produced by the body in response to the presence of the virus).

This series of cases presented a tremendous opportunity to do DNA fingerprinting to prove that there is a link between *MbP* and Herpes simplex. There were two pairs of infants who had the same Mohel. In one case, the Brisos were five weeks apart. The authors give no reason as to why they did not pursue DNA fingerprinting to compare the Herpes simplex virus of the two infants to establish a common source. The other pair of

18. See Note 1.

infants associated with one Mohel developed infection ten years apart.

Since the authors did not rely on the gold standard of establishing transmission, DNA fingerprinting, one would think that the epidemiologic evidence presented would be sufficiently convincing to prove their hypothesis. Surprisingly, this is not the case. There is no mention made of whether these physicians had observed cases of Herpes simplex infection on the male organ not associated with *MbP*, or whether they had treated any female babies with Herpes simplex in the genital area. In the absence of this information, the observation that there were some babies who had both *MbP* and Herpes simplex proves nothing.

Some of the background information about *MbP* in this article was shocking in its inaccuracy. The authors, in describing how *MbP* is performed generally, state, “this procedure (suctioning) was repeated several times until bleeding stopped.” Those who have witnessed *MbP* and those who perform it can attest to the fact that there is only a single act of suctioning, which is *not* repeated.

On the historical side, the article states that after Rabbi Moses Schreiber (the Chasam Sofer) ruled that *Metzitza* (suctioning) could be done by one individual with gauze (as in the letter discussed above), this ruling was “quickly adopted by most rabbinical authorities.” Although some rabbinical authorities used this ruling to allow *Metzitza* in other forms, there was no decrease in the practice of *MbP* in the areas where the Chasam Sofer was most influential. In fact, one of his most famous students, the Maharam Schick, in discussing the issue, wrote that *MbP* should be continued, as he saw no health problems associated with it.¹⁹ He stated that the decision of the Chasam Sofer was limited to this one Mohel and was never meant to end the practice of *MbP*.

It is clear from their responsa that Rav Samson Rafael Hirsch and his teacher, Rav Yaakov Ettlinger, from the German community, were aware of the ruling of the Chasam Sofer and wrote passionately about the importance of continuing *MbP*.^{20 21} Rav Hirsch even wrote that in a case where

19. *Shailos uTeshuvos Maharam Schick, Ohr HaChaim*, 152.

20. *Binyan Tzion* (Responsa of Rav Yaakov Ettlinger), 1:23,24.

21. Rav S.R. Hirsch, *Shemesh Marpeh* on *Sefer Bereishis*.

a father asks a Mohel not to do *MbP*, the Mohel should not do the Bris at all. Later on, as the pressure on Rav Hirsch grew to allow the use of the glass tube as an alternative, he sent the question to Rav Yitzchak Elchanan Spector, who gave permission to allow the use of the tube, but who in no way stated that *MbP* should be stopped.²² This appears to be the source of the custom of the German community to this day to use the tube.

Another startling statement made in the article is that “oral suction may not only endanger the child, but also may expose the Mohel to human immunodeficiency virus (HIV) or hepatitis B from infected infants.” As HIV has been around for over 30 years and hepatitis B has probably been around for many hundreds of years, and as there never has been a single case identified of such transmission of either virus, it is reasonable to assume that this is not a danger that needs to be considered.

With all of the questions about this study, it is unlikely that one can draw any conclusions from it with regard to the transmission of Herpes simplex through *MbP*. In the absence of any DNA fingerprinting evidence, the study certainly falls short in proving that a Mohel can transmit Herpes simplex through *MbP*. Given some of the other weaknesses in the study, neither can we draw any conclusions at all from the information presented.

An earlier article had been published in 2000²³ regarding two babies who had developed Herpes simplex infection, starting in the genital area several days after the Bris Milah and who had had the same Mohel, although one baby developed the infection in 1988 and the other developed it in 1998. Again, it is not clear whether the Mohel transmitted the infection to the two infants. No DNA testing was reported on in the study; nevertheless, the authors suggested that the Mohel was responsible. There was also a case report published in the Israeli literature in 2003 of a baby who developed primary genital Herpes simplex infection following a Bris.²⁴ Again, no DNA matching had been done.

22. Rabbi Moshe Pirutinsky, *Sefer haBris*, page 222.

23. Rubin, L.G., Lanzkowsky, P., “Cutaneous neonatal Herpes simplex infection associated with ritual circumcision,” *The Pediatric Infectious Disease Journal*, 2000;19(3):266-267.

24. Distel, R., Hofer, V., Bogger-Goren, S., Shalit, I., Garty, B.Z., “Primary genital

The New York City Department of Health began its attack on *MbP* in 2005, focusing its efforts on stopping one individual Mohel from performing *MbP*. This Mohel had performed a Bris on three babies who developed neonatal Herpes infection in 2004 and 2005. There was also a strong effort by the agency to persuade the Orthodox Jewish community to avoid *MbP* and to use a tube instead to perform *Metzitza*. On December 13, 2005, Thomas Frieden, M.D., M.P.H., who was then the commissioner of the Department of Health and Mental Hygiene of the City of New York, sent “An Open Letter to the Jewish Community from the New York City Health Commissioner.” This letter can be found on the website of the Department of Health and Mental Hygiene of the City of New York. The letter stated, “there is no reasonable doubt that the practice of *Metzitza bePeh* (“suction by mouth”) has infected several infants in New York City with the Herpes virus, including one child who died and another who has evidence of brain damage.” The letter was also intended to “educate” the Jewish community that many religious authorities allowed using a glass tube, sponge, or sterile gauze pad as a way of fulfilling the religious obligation of *Metzitza*.

In this letter, Dr. Frieden summarized the investigation of the health department that led to its conclusion that “there exists no reasonable doubt that *Metzitza bePeh* can and has caused neonatal Herpes infection.” In his letter, Dr. Frieden presented the literature that I have summarized above. He made no mention of the weaknesses of the published literature. The main evidence presented “proving” the link between *MbP* and neonatal Herpes infection related to this one Mohel. Dr. Frieden reported that there were three infants circumcised by this one Mohel who developed Herpes infection “in the genital area eight-to-ten days after circumcision.” The letter also stated that there were two additional cases in 2005 consistent with infection from *MbP* (not the same Mohel). Dr. Frieden presented statistical data that based upon the estimated average of 30 annual cases of neonatal Herpes infections in New York City, the odds of one Mohel’s being associated with three cases of neonatal Herpes is “about 6.9 million to one.”

Herpes simplex infection associated with Jewish ritual circumcision,” *The Israel Medical Association Journal*, 2003;5(12):893-894.

There were a number of serious omissions and flaws in the case against *MbP* presented by the New York City Department of Health. First, two of the three infants were twins. In light of the report of transmission of neonatal Herpes in a neonatal nursery with transmission from one baby to another through healthcare workers who were handling the babies,²⁵ it is reasonable to presume that one of the twins gave it to the other. The city might argue that the close timing of the presentation of illness supports the presumption that the twins were infected at the same time from one source, but the timing can be explained with the infection traveling from one baby to the other.

Regarding the third baby, the Mohel has stated on many occasions that he did not do *MbP* on the single baby. He has stated that he generally does not do *MbP* in more “modern” communities. It is not clear that there was an eyewitness to actual contact between mouth and the organ. We are now down to the possibility that only one baby (one of the twins) was independently and directly associated with *MbP* as a possible source of transmission of Herpes.

Even if one is willing to concede that it is very unlikely for one Mohel to have three cases of neonatal Herpes among those that he circumcised, the conclusion that it was transmitted by a particular Mohel does not follow from this fact. It is analogous to trying to prove that every lottery winner has a particular characteristic such as the power to prophetically predict the exact winning number. Indeed, if 6.9 million lottery tickets are sold, then each ticket holder has a 1/6,900,000 probability of winning; but the success of the winner cannot reasonably be attributed to prophetic powers. Similarly, in the absence of solid clinical or statistical information linking a particular Mohel to Herpes simplex, it cannot be reasonably inferred from the fact that an unlikely outcome (three cases of neonatal Herpes) occurred that the Mohel himself was the cause of the outcome.

Dr. Frieden stated that “the infants developed Herpes infection in the genital area.” It is not clear at all that the Herpes infection began in the genital area. According to a study published in 1998,²⁶ in Herpes simplex

25. See 10.

26. Whitley, R.J., Kimberlin, D.W., Roizman, “B. Herpes simplex virus,” *Clinical*

infection, the vesicles (skin lesions) first appear at the site where the infection begins. If the vesicles appeared first in another area, it would be doubtful that the infection was related to the *MbP*.

The Mohel has stated that for all three babies, he had called attention prior to the Bris of a rash, but not in the area of the circumcision. All three babies had to be treated by their pediatricians for the rash. Having a rash would put the babies at high risk for Herpes infection to be transmitted through a family member or anyone else handling the baby, as it is known that Herpes simplex is transmitted most easily through abraded skin. If the vesicles of Herpes simplex infection had first appeared in the area of the previous rash, one would have to consider it quite likely that someone handling the baby who was infected with Herpes simplex had transmitted the infection through the abraded area.

Incidentally, there was later a fourth “case” associated with this particular Mohel. It turned out that, although it was first suspected to be a case of neonatal Herpes, the diagnosis did not have laboratory confirmation.

In the same way that the literature dealing with the subject fell short of establishing the link between *MbP* and neonatal Herpes, the Department of Health of New York City also fell short, in that there was never any DNA fingerprinting matching done to prove the connection. There were two ways to consider to establish such a link. One would have been to match the virus of this particular Mohel with that of one of the babies. DNA testing was never done on the Mohel. The Mohel was prepared to submit to DNA testing. The rabbis and experts involved in the matter were eager to have DNA testing done. However, the City of New York offered the testing in a way that was extremely unfavorable to the Mohel with regard to his future. There was no way that he could accept the terms of the testing that were offered by the city of New York. Another approach would have been to compare the DNA strains of the nonrelated babies. It is known that infants with neonatal Herpes infection often have recurrent lesions, which would make virus available for DNA fingerprinting and matching. It is not clear why this was not done. It would have been a “home run” for the Department of Health, if the DNA of the non-related

Infectious Diseases, 1998;26(3):541-555.

babies had matched. On the other hand, if the viruses did not match, the contentions made by the Department of Health would have collapsed.

The New York City Department of Health has taken a position on *MbP* which does not seem to reflect its general approach to situations that might pose some risk, especially for children. Currently on the New York City Department of Health website there is an information sheet regarding *MbP*. There is a strong statement that is made in bold letters:

Because there is no proven way to reduce the risk of Herpes infection posed by *Metzitza bePeh*, the health department recommends that infants being circumcised not undergo *Metzitza bePeh* . . . While severe illness associated with this practice may be rare, there is a definite risk of infection.

First, the Department of Health has declared that there is “a definite risk of infection.” Although the experts in the Department of Health may believe that there is a risk of infection, it is inaccurate to say that there is “a definite risk of infection,” in the absence of DNA fingerprinting evidence, when that has been the standard for proof of viral transmission.

The Department of Health also recommends that “because there is no proven way to reduce the risk of Herpes infection posed by *Metzitza bePeh*, . . . infants being circumcised [should] not undergo *Metzitza bePeh* Although a Mohel may use oral rinses or sip wine before *Metzitza bePeh*, there is no evidence that these actions reduce the spread of Herpes.” In fact, there would never be a way to prove that the risk of infection can be reduced in this manner, since either the risk is nonexistent or so small to begin with, that it would be impossible to design a study to prove that the risk can be reduced. In fact, if there does exist any small risk, there is strong reason to believe that this tiny risk can be reduced to almost 0%. Several studies have shown the effectiveness of common mouthwashes including Peridex and Listerine in killing Herpes simplex virus in the mouth.^{27 28} If

27. Bernstein, D., Schiff, G., et al., “In vitro virucidal effectiveness of a 0.12%- chlorhexidine gluconate mouthrinse,” *Journal of Dental Research*, 1990;69:874-876.

28. Meller, T., Silva, A., Ferreira, S., et al., “Efficacy of Listerine antiseptic in reducing viral contamination of saliva,” *Journal of Clinical Periodontology*, 2005;32(4):341-346.

a Mohel were to use such a mouthwash immediately prior to performing *MbP*, it is quite reasonable to conclude that any small risk that might exist can be eliminated.

In contrast to its strong urging against *MbP*, I cannot find any recommendations from the Department of Health to members of the Jehovah's Witnesses faith telling them of the dangers of refusing blood transfusions, which is part of their faith. Certainly, there are situations when refusing blood transfusions can be life-threatening; yet such parents are allowed to refuse blood transfusions on behalf of their children.

There are other activities for children that are clearly associated with significant risk. In a study of eight major Norwegian Alpine resorts, there were 3,277 injured skiers and snowboarders in one year! There were 578 head injuries, of which 147 were potentially severe.²⁹ Additionally, the CDC published a report on bicycle injuries in 2000.³⁰ Each year, over 600,000 people are treated in emergency rooms for bicycle-related injuries, and an average of 824 die from these injuries. Many of the non-fatal head injuries produce lifelong disability from irreversible brain damage. Furthermore, as of 1982, there were 140,000 injuries associated with swimming activities in the United States every year, with 7,000 drownings.³¹ Finally, there have been several outbreaks of hemolytic uremic syndrome, a potentially fatal problem associated with petting zoos in the United States. Three such outbreaks during 2004-2005 led to 24 cases.³²

Government agencies have tried to reduce the frequency of these injuries and lessen the dangers through various safety measures which do not

29. Sulheim, S., Holme, I., Ekeland, A., Bahr, R., "Helmet use and risk of head injuries in alpine skiers and snowboarders," *Journal of the American Medical Association*, 2006;295(8):919-924.

30. "Pedal-cycle injuries among children aged less than six years," *Morbidity and Mortality Weekly Report, Massachusetts Medical Society*, 2006;55(50)1345-1375.

31. "Perspective in disease prevention and health promotion aquatic deaths and injuries," *Morbidity and Mortality Weekly Report, Massachusetts Medical Society*, 1982;31(31):417-419.

32. "Outbreaks of *Escherichia coli* O157:H7, associated with petting zoos—North Carolina, Florida, and Arizona, 2004 and 2005," *Morbidity and Mortality Weekly Report, Massachusetts Medical Society*, 2005;54(50):1277-1280.

come close to eliminating the activities themselves. I have not seen any government agency recommendations to stop skiing, bicycle riding, swimming, or visiting petting zoos.

In view of the acceptance of these hazardous activities that are recreational and that are not in any way part of the necessary activities of life, it is puzzling why the Department of Health would take such an aggressive stance against a religious activity that might have no risk, or at worst, an extremely small risk.

On a similar note, within the practices of Judaism, one can argue that there are many activities that carry a certain amount of risk. The most obvious one would be the lighting of candles in a house for Chanukah or Shabbos. Unfortunately, there have been tragedies associated with these candles. On fast days, being deprived of food and drink for many hours at a time can directly lead to medical complications and can also lead to fainting spells which can in an indirect way cause significant injuries. Although we are told to follow the doctor's advice with regard to the safety of fasting under certain conditions, there are many individuals who do not seek such advice or ignore such advice and put themselves in danger. The four cups of wine on Passover can lead to some complications either through the direct intoxicating effect of wine or indirectly through an injury occurring from the effects of wine. Driving or walking to shul to help make a Minyan on an icy or snowy day can be dangerous. Yet, we do accept certain levels of risk within Halachah.

The attack by New York City on *MbP* and the publicizing of the controversy led to a great deal of debate within the Orthodox Jewish community on how to deal with the issue. Towards the end of 2004, Agudath Israel issued a statement expressing its outrage at the government's attempt to intervene in a religious practice:

Agudath Israel of America is deeply troubled by the Department's unprecedented and highly selective use of its bully pulpit authority to publicly attack a millennia-old practice that many Orthodox Jewish communities and rabbinical authorities regard as an integral and indispensable part of the ritual obligation of Bris Milah.

The Rabbinical Council of America focused more on the halachic side of the issue. It came out with the following statement in March 2005, expressing a preference for using a tube:

Based upon a careful study of the available halachic and scientific literature, as well as a review of sanctioned practice by numerous reliable Torah authorities past and present, it is the position of the RCA that the requirement of *Metzitza* is fulfilled completely and unambiguously by the use of oral suctioning through a tube, as practiced by many Mohelim in our communities. Therefore, according to this viewpoint, the use of such a tube is not only permissible, but is preferred (instead of direct oral contact) to eliminate any unintentional communication of infectious diseases. This protects both the Mohel and the newly circumcised child.³³

Later in 2005, the RCA repeated its position, giving a more detailed halachic discussion, and basing its decision primarily on a tradition passed from Rabbi Yosef Dov Soloveitchik. The following appeared in its statement:

Rabbi Schachter even reports that Rav Yosef Dov Soloveitchik reports that his father, Rav Moshe Soloveitchik, would not permit a Mohel to perform *Metzitza bePeh* with direct oral contact, and that his grandfather, Rav Chaim Soloveitchik, instructed Mohelim in Brisk not to do *Metzitza bePeh* with direct oral contact. However, although Rav Yosef Dov Soloveitchik also generally prohibited *Metzitza bePeh* with direct oral contact, he did not ban it by those who insisted upon it.

Many in the camp who prefer to use a tube when doing the *Metzitza* cite the fact that *MbP* was not practiced in Lithuania. This appears to be related to the position stated by the RCA. They claim that the accepted tradition has been to no longer practice *MbP*. Dr. Sprecher, in his article in *Hakirah*, writes, “it should be obvious . . . that the *Litvishe-Yeshivishe* community’s current alliance with the Hasidic efforts to ‘preserve’ **their** holy practice of *MbP* from the depredations of the New York City Department of Health is

33. Rabbinical Council of America, “Metzitza Be’Peh - Halachic Clarification,” <http://www.rabbis.org/news/article.cfm?id=100605>

more of a covered text-based practice than an actual preserved tradition.”

This statement is difficult to accept. First, the practice of *MbP* has been widespread in the *Litvishe-Yeshivishe* community for many years, predating the controversy that began in 2004. I have spoken to individual Mohelim from Lakewood, Baltimore, and Flatbush who confirmed this. *MbP* is also standard practice in the Chareidi communities of Israel and even in the yeshiva community of Brisk. There is no dispute that there was a time in Lithuania when the practice ceased. However, it appears that this was just for a short time because of certain circumstances. There are conflicting accounts as to what the circumstances were. The “actual preserved tradition” came back almost as strong as ever after some time.

For those communities who use the tube in *Metzitza*, I would like to share one personal observation, which I have also discussed with an experienced Mohel who independently noted the same, that *Metzitza* (suctioning) was not performed in many of the Brisos I attended and watched carefully. There is one Mohel from Washington Heights, New York City whom I have observed who does an extremely strong and effective *Metzitza* using the tube. However, many other Mohelim whom I have observed appear to be a bit squeamish about coming into contact with blood and seem to just go through the motion of placing a tube without a real suctioning action. The blood that one sees on the tube generally comes directly from the wound without any suctioning. I am not sure if any *Metzitza* is taking place. If this is the case, the communities supporting this practice would have to depart even further from the position of the Chasam Sofer permitting the use of gauze to say that no *Metzitza* at all is required.

To give a more complete picture about the health effects of *Metzitza*, it should be noted that Dr. Mordechai Halperin, who is chief of Medical Ethics at Israel’s Ministry of Health, advances a theory that *Metzitza* (*bePeh* or by tube) *prevents* a medical complication of “post-circumcision hypoxia.”³⁴ In his article, Dr. Sprecher attacks this theory from several

34. Halperin, M., Fink, D., Rosen, D., “A new insight to mysterious talmudic rulings: *Metzitza* and bathing in warm water in the performance of Jewish ritual circumcision: A modern explanation for their institution and its clinical, Halachic, and legal significance.” <http://www.medethics.org.il/articles/JME/JMEM10/JMEM.10.3.asp>

vantage points. I spoke to Dr. Halperin about these arguments and he maintains that his theory is correct. He responded to all of Dr. Sprecher's challenges in a later article.³⁵

Many have asked how it is possible for *MbP* not to transmit Herpes infection. After all, the route of oral transmission is certainly documented in other situations. One possibility is that the time of contact with the baby is too brief to transmit the virus. Another possibility is that the wine that the Mohel has in his mouth during the *MbP* acts as a disinfectant.

As indicated earlier, there appeared to be several opportunities to establish through DNA testing if the connection between *MbP* and neonatal Herpes infection really exists. The babies in Israel apparently never had their Herpes virus DNA compared. The babies who were thought to be infected by one Mohel in New York City also apparently never had their Herpes virus DNA compared. There may be one opportunity right now that could really "break the case open" as to whether there is any relationship between *MbP* and Herpes simplex. I have heard from personal correspondence with a pediatrician in New York City that he took care of two brothers who developed neonatal Herpes infection in the genital area one year apart after having had a Bris by the same Mohel who performed *MbP*. Looking at this through the prism that *MbP* is definitely a cause of neonatal Herpes infection, one would jump in excitement and say, "Aha, it has to be the Mohel!" A more objective approach would be to find out if this Mohel had ever transmitted Herpes infection to any other baby and if he was a busy Mohel. If he were a busy Mohel and never transmitted Herpes to any other baby, I would then look to common contacts of the two brothers, who would be family members and close friends, as possible transmitters of the virus. If DNA testing could be done in this case of people who came in contact with the babies, I think that we could finally get the answer to the question of any link between Herpes simplex infection and *MbP*.

When all is said and done, there is still no evidence that Herpes simplex infection is related to *MbP*. It remains an open question. While there are some observations that might lead one to believe that it is related, until

35. Halperin, M., "Metzitzah B'peh Controversy: The View from Israel," *Jewish Action*, 2006:67(2).

there is DNA evidence or there develops a frequency of infection that would lead one to believe that epidemiologically it has to be related, we cannot know the answer. If transmission does occur, it is rare. With regard to the halachic decision as to whether *MbP* should be continued in those communities where it is practiced now, I am not sure that it is critical to know if transmission ever does occur or not. From my discussions with some of the *Rabbonim* who have dealt with the issue, it seems that their recommendation to continue the practice was even with the assumption that it was possible to transmit the virus through *MbP*. Their feeling was that transmission is so rare, if it does occur, that the practice should not change. I believe that a critical factor in their decision-making is that the pressure to end the practice is coming from the government. There is a strong feeling in the Jewish community that this government attack on *MbP* is a disguised attack on Bris Milah and more generally on Jewish ritual. For those who say, “that is ridiculous,” look no further than the ballot in San Francisco this year which had an item for the citizens of San Francisco to vote on whether to outlaw Bris Milah altogether. This feeling that the attack was a more general one, I believe, weighed heavily in the minds of the Gedolim.

As a physician, I have been asked many times whether *MbP* should be done. That is not a question for me or any other physician to answer. My responsibility is to relate the medical information, as best researched as possible, to the Gedolim. They will *pasken* for us on how to act. It is their knowledge of Torah which gives them the best insight possible into *ratzon Hashem*, an idea expressed by Rav Elchanan Wasserman.³⁶ That insight allows them to direct us in how to practice. There are many factors to consider, which only they are able to do.

One can never stop marveling at the ways of *Hakadosh Baruch Hu*. When the controversy started, it seemed like terrible news for the Jewish community, and it meant great tribulation for one individual Mohel. At the end of all this, I do not think there has been a decrease in the practice of *MbP*. Those who practiced it before continue to do so and those who did not continue not to. The incredible gift of Hashem is that this whole

36. *Kuntres Divrei Soferim*, 16-24.

controversy has actually saved lives. It has created an invaluable awareness of the danger of neonatal Herpes infection, so that the diagnosis is now made immediately and not delayed, which is what is necessary to treat it properly. I think that lives have been saved already.

Finally, I strongly believe that this subject should not be a source of *machlokes*. The use of the tube is widely accepted if done properly, and under many circumstances it is recommended by many of the Poskim. On the other hand, the Gedolim of many communities have *paskened* to continue the practice of *MbP* under most circumstances. Neither side should criticize the other. I have heard some criticize the Poskim who encourage *MbP*. “Don’t they care about their babies?” they argue. This is an absurd argument. In their decisions, the Poskim are weighing heavy issues that could impact substantially on the future of religious life in the United States.

I am sure the reader would like to ask me an obvious question: Would I have it done to my own grandson?

I was *zocheh* to have a grandson more than one year ago. The Bris took place in the Yeshiva University *Beis Midrash*, where my oldest son, the father, is studying for *Semichah*. The Mohel was the one under attack by New York City; his son performed the *MbP*; and I was the Sandak.