

## Is a Doctor Liable for a Misdiagnosis?

Rabbi Yitzchak Grossman

**Case:** Reuven was not feeling well. He went to see his doctor, who told him that he is deathly ill with cancer and must start chemotherapy immediately. Reuven took his advice and started chemo, but later discovered that he merely had a stomach virus.

**Question:** Is the doctor liable to pay for what the chemotherapy treatments did to Reuven?

**Answer:** As we mentioned previously, the general rule is that a doctor is liable in *dinei shomayim*, in the eyes of Heaven but not in *dinei odom*, in our courts of law. Rav Shlomo Zalman Auerbach writes that a doctor only bears liability at all if he commits some form of negligence, such as grabbing an unsterilized knife or handing a patient a bottle of the wrong medicine. If he did the best he could, however, he has no liability even in *dinei shomayim*. Accordingly, if he gave the best diagnosis he could, and this diagnosis turned out to be mistaken, he bears no liability.

The Tzitz Eliezer quotes the Chida who says that a doctor may be liable for a misdiagnosis if he failed to investigate thoroughly enough or was hasty with his conclusions. If, however, he made the best judgment he could under the circumstances, he is not liable at all.