

Setting The Price For a Dental Procedure

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Question: In some industries there are no clear market rates. Take dentists for example: Some charge \$1,200 for a root canal, while others charge over \$2,000 for the same procedure. Could *ona'ah* apply in that sort of industry?

Answer: Obviously, it would be impossible to nullify the sale in any case. You can't undo a root canal and ask for a refund. Once it's done, it's done.

The question that would be applicable would be if someone is in a desperate situation because he is in terrible pain, and therefore agrees to pay an exorbitant price to get the root canal done. Since the patient only agreed to pay this price under duress and because he had no other option, he may later claim that it's not fair to make him pay such an inflated amount, as he would never have agreed to do so if he hadn't been in such a bad situation.

While this discussion would not center around *ona'ah*, it is a very relevant topic. There is a concept in the Gemara called *ketzitzah al yedei hadchak*, referring to a case where one only agreed to pay a certain price because he had no other choice. The case of the Gemara involves an individual who is fleeing from criminals who want to murder him. He comes to a river which he has to cross to save his life and finds a boat sitting there, which he wants to hire to take him across. The captain, realizing this man is desperate, quotes him an exorbitant price for the job, and, left with no other choice, the man agrees. The Gemara rules that the man does not have to pay the inflated fee once he gets across the river.

This ruling is somewhat subjective, as it is understood that a patient will pay more if he needs a dentist on the spot, or, for example, if he has a plumbing emergency and needs a plumber to come down immediately. In such emergency situations it is understood that the market allows the dentist or plumber to charge a higher price. Thus, we would have to weigh every situation to determine when a service provider is asking for a sensible price in an emergency situation and when he is taking advantage of a desperate person and overcharging him. (It is possible that where it is actually a problem on the part of the service provider, if you have not paid yet it may give you the upper hand as a *muchzak*.) As there is so much complexity involved, every case would be different in this regard and all variables would have to be considered to issue a *psak*.

Regarding the rules of *ona'ah*, however, it would be very difficult to make a claim in any such case, as the factors that determine a market price are many and it would be exceedingly hard to prove that a service provider is overcharging for this exact situation.