

# A Halachic Guide *for* Pregnancy Loss

HaRav Tuvia Kasimov

A Project of *With Love* and *Mikvah.org*

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### **A TIME**

347.986.6443

ATime.org

info@atime.org

### **Bikur Cholim Crown Heights**

718.467.1661

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917.259.6006

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# A Halachic Guide *for* Pregnancy Loss

HaRav Tuvia Kasimov

Reviewed by: HaRav Shalom Ber Chaikin  
and HaRav Yosef Yeshaya Braun

## ACKNOWLEDGMENTS

We would like to express our deepest gratitude to **HaRav Tuvia Kasimov** for taking his time to answer all of the questions in this booklet and to **HaRav Chaikin** and **HaRav Braun** for reviewing all of the answers for clarity.

This initiative would not have been possible without the support of:

**Mrs. Shaina Wilmovsky**, Co-founder, With Love

**Mrs. Chaviva Tarlow**, Co-founder, With Love

**Mrs. Rivky Boyarsky**, RN, SCNM, Kallah Teacher

**Mrs. Chumi Friedman**, Director, HUG/ATIME

**Mrs. Alanna Garbman**, Director, Menuchas Hanefesh

**Mrs. Chassi Rivkin**, Director of Operations, Mikvah.org

**Mrs. Mush Kanner**, Graphic Designer

**Mrs. Ya'akovah Weber**, Copy Editor

A special thank you to **Mrs. Sara Morozow** for all the time and effort she dedicated to making this project happen.

This project is inspired by all the women who help break the stigma and silence by asking questions and seeking support.

## Introduction

For many of us, pregnancy means hope: the hope for a new life, for an expanded family, for extra joy. It's a time of expectation.

What happens, though, if things don't go as we had anticipated? What happens when a pregnancy is over before we've had a chance to share the news? What happens when our baby is still-born, and we don't know how to grieve?

This booklet has been inspired by the many women who have experienced the pain of loss and want to make the process a bit easier for others: women who asked the tough questions and pushed for clear halachic guidance so that all can know how to proceed; women who want to make sure that you are able to process your pain and loss without worrying about whether you're doing everything right.

While we hope this booklet reaches those in need, we also pray for the day it will no longer be needed.

## Preface

The following questions were submitted by women who have experienced the loss of a pregnancy. They relate to *taharas hamishpachah*, the laws of *Shabbos*, *tumas meis*, etc. The answers given by HaRav Kasimov are for general knowledge and should not take the place of asking a *she'elah* to a *Rav*, as even a slight detail may change the *psak*. *While this is not a complete guide to the halachas pertaining to pregnancy loss, these are the most frequently asked questions.*

### **Q. At what point does one become *niddah*?**

A. From when spotting due to the miscarriage starts. If it is not clear if the spotting is due to the miscarriage, one should contact their doctor and a *Rav* should be consulted.

### **Q. If the doctor says that this pregnancy will result in a miscarriage, however no bleeding has yet begun, does that alone render one *niddah*?**

A. As long as the actual miscarriage has not started—meaning that no bleeding has taken place, or a D&C/D&E procedure was not performed—one is not *niddah*.

**Q. If after the D&C or D&E procedure one did not bleed, is she still *niddah*?**

A. Yes<sup>1</sup>.

**Q. If the miscarriage takes place on Shabbos does one have the status of a *yoledes*?**

A. Yes<sup>2</sup>.

**Q. If on Shabbos one begins to bleed, is one permitted to call the doctor?**

A. If there is any risk of possible *sakanab*, one must call the doctor; whenever possible it should be done with a *shinui*. It is advisable (when possible) to consult with the doctor beforehand to ask what to expect and to be prepared ahead of time.

**Q. How many days does one need to count after the miscarriage until she can *tovel*?**

A. If the miscarriage occurred before 40 days since conception, then wait the regular five days before performing the *hefsek tabarah* and beginning the *shivah neki'im*.

If it took place after 40 days from conception, one should wait seven days. On the seventh day, a *hefsek tabarah* is performed and one begins the *shivah neki'im* the following day. Please note that these timelines are from a halachic standpoint; medically, one may need to wait longer for bleeding to subside.

1 דאין פתיחת הקבר בלא דם, וגם היפך המציאות הוא שלא יהיה שום דם שיצא מן המקור.

2 ראה ביאור הלכה סימן תרי"ד"ה יולדת.

If one is in doubt as to whether it happened before 40 days or after, or how to calculate the 40 days, a *Rav* should be consulted.

**Q. From when do the seven days preceding the *shivah neki'im* begin: from when the bleeding begins or the actual miscarriage takes place (either naturally or through D&C)?**

A. The bleeding does render one *niddah* right away. However, the count of seven waiting days and then the *shivah neki'im* only begin once the miscarriage actually took place (either naturally or through medical intervention). When in doubt, a *Rav* should be consulted.

**Q. How are *vestos* affected after a miscarriage?**

A. If the miscarriage took place after 40 days, one has the same halachic status as a *yoledes* and does not establish a *veses kavua* for the next 24 months. However, regular *vestos* are still kept. If the miscarriage took place before 40 days, it does not count as a regular *veses*. However, the *onah beinonis* is kept from the miscarriage. For further clarification a *Rav* should be consulted.

**Q. After a miscarriage it often happens that one bleeds for a few weeks, then is able to count the *shivah neki'im* and *tovel*, but shortly after begins to bleed again. Does this bleeding affect the calendar?**

A. There are a few factors involved, and in each case a *Rav* should be consulted.



### Q. Does my husband need to get an *aliyah*?

A. Yes the husband still gets an *aliyah* if it was after 40 days<sup>3</sup>.

### Q. Do I need to go to *shul* to hear *Barechu*?

A. Yes, one does go to *shul* to hear *Barechu*<sup>4</sup>.

### Q. My husband is a *Kohen*.

#### What are the guidelines for him?

A. *Tumas meis* does apply to a *neifel* (fetus)<sup>5</sup>. If it happened before 40 days, there is no issue of *tumas meis*<sup>6</sup>.

### Q. Is there an obligation to bury the fetus? If there is, from how many weeks?

A. There is an obligation to bury the fetus. There is a difference of opinion amongst the *poskim* as to when it is required. It can range from 12 weeks and on, and a *Rav* should be consulted.

### Q. If the fetus is less than the minimum age to require burial, can one do so on their own? If it is permitted, what are the guidelines?

A. A *Rav* should be consulted.

3 שערי אפרים שער ב סעיף ה.

4 דמפלת דינה כיוולדת, ועיין בפתחי שערים (שער ד על סעיף כח) שכתב דלא רק ביולדת אלא אפילו אם הייתה חולה ונתרפאת חייבת בהגומל, ולפ"ו כ"ש המפלת דאיכא סכנתא.

5 ראה ט"ז יו"ד סימן שסט ס"ק א.

6 ראה קשו"ע סימן רב סעיף א.

**Q. On a practical level, does one need to know the gender beforehand? Do the parents need to choose a name, or is this all given over to the *chevrah kadisha*?**

A. It is recommended to contact the *chevrah kadisha* ahead of time to find out this information, as some have a custom that the *chevrah kadisha* gives the name, and others allow the parents to choose the name. If the gender of the fetus is unknown, a gender-neutral name is given, for example *Simchah*.

**Q. If after consulting with a *Rav* it was determined that the fetus requires burial, what organization should be contacted?**

A. It is recommended to first call Misaskim (718) 854-4548 or your local *chevrah kadisha* for general guidance.

**Q. If there are recurrent miscarriages, is testing permitted to be done on the fetus: for example, to take a tissue sample?**

A. A *Rav* should be consulted.

**Q. Does a woman need to add a Shabbos candle for a miscarriage?**

A. It is not necessary to add a candle. If one feels a need to do so, this is something they can discuss with their *Rav*.

**Q: Are there any general guidelines as to what a woman may do while still in the hospital to help her cope with what is happening?**

A: This is most certainly a very difficult time whose memory will never leave us. Please know that even the smallest things can stand as a *zechus* for this very special *neshamah*, and it's important to do what's right for their sake. Small things that some may want to do can be *she'elos of kavod hameis* as well as other *she'elos*, and thus must be discussed with a *Rav* before the baby is delivered.

**Q. Is one allowed to hold a stillborn child or take a picture?**

A. One should not hold or see a baby who was stillborn or take a picture<sup>7</sup>.

**Q. Does the fetus that was miscarried still receive *olam habah*, and will they rise by *techiyas hamesim*?**

A. They most certainly do, and not only do they have *olam habah*; they will also rise by *techiyas hamesim*, and they will rise as *tzadikim gemurim*, as their *neshamos* are pure without sin<sup>8</sup>.

7 הוראה זו קבלו מאת הרב אושפאל זצ"ל (יו"ר תברא קדישא חב"ד, ומח"ס דרכי חסד) שהקפיד ע"ז מאד. ולהעיר דאיתא בצוואת רבי יהודה החסיד (צוואה ד) לגבי חומר הדבר לנשק מבניו שהוא מת, ויש גורסים "לאחוז".

8 ראה שו"ת אג"מ יו"ד ח"ג סימן קלח.

[withloveny.org/ourservices](https://withloveny.org/ourservices)

For more answers, submit your questions on *With Love's* Q&A forum at [withloveny.org/questions-answers](https://withloveny.org/questions-answers)

*May all families be blessed with  
revealed good in every way,  
b'gashmius v'ruchniyus.*

*— Anonymous Donor*

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