



RABBI GIDEON

**Machon Puah for Fertility and
Gynecology in Accordance with Halacha**

WEITZMAN

Relying on the Midwife

Last time we discussed the need for and part of the halachic basis for supervision in the contemporary fertility clinic and laboratory.

WHY DO WE NEED SUPERVISION FOR FERTILITY TREATMENTS?

Since we want to be assured that the child born is actually the child of these parents.

BUT WE DO NOT CHECK EVERY SINGLE CHILD BORN TO ENSURE THAT THEY ARE THE CHILD OF THE DECLARED PARENTS?

There we have a halachic principle that we can assume that a married couple's children are theirs. Even though there are cases of infidelity, the Gemara states a halachic determination that the husband is always considered the father. However, in the case of fertility treatments we cannot make such a claim, since there is another factor involved. The embryo was created ex-vivo, outside of the body, by the medical professionals in the laboratory. We cannot employ this principle that the husband must be that father, and must assume that it is possible that a mistake could happen, necessitating the use of external halachic supervision.

WHO CAN BE A HALACHIC SUPERVISOR?

On a halachic level that depends on how

we view supervision in a halachic context. Some suggest that supervision is basically a witnessing program that proves the validity and integrity of the genetic material. The supervisor acts as the representative of Am Yisrael to ensure the identity of the child. This is similar to a conversion that is observed by kosher witnesses on behalf of the Jewish people. If this is the case, then the supervisor must be a kosher witness, which means they must be an adult Jewish man.

However, the Gemara (Kiddushin 78a) brings a case in which there was doubt as to the identity of children who were delivered and placed together, similar to a modern neonatal unit. The children were not identified prior to being placed in the same vicinity and now there is some confusion as to who delivered which baby. The Gemara writes that the midwife is trusted to declare 'this child is a cohen and this child is a levi.' We see that even though the Sages were particularly strict regarding Jewish lineage, they relied on the information supplied by the midwife. We can deduce that a woman can serve as a "witness" in such a case. This is the basis for employing women as supervisors.

The women are carefully chosen and trained to fulfill the function of a supervisor.

More on this next time. ■