

VEBDE REBDE

Halachic Consequences of Use of Medical Marijuana

Question: *After years of unsuccessful 'conventional' treatment for debilitating pain, the medical marijuana my doctor has prescribed for me has proven more effective and with lesser side effects. My license is only for "leaves", not pills or oil. Obviously, I can't smoke on Shabbat, so I baked a batch of "cannabis brownies" to eat. These take effect about 90 minutes after ingestion. Can I eat one of these brownies before shul? If so, should I make Kiddush first? Also, can one do Birkat Kohanim while using medical marijuana (although it affects coordination briefly and I feel a bit drunk, I am not drunk, and it does not impair my thinking ability)?*

Answer: [We trust that our readership is aware of the great distinction between drug abuse and between responsible use of medical marijuana - as prescribed by a doctor in a place it is legal, for those in great need.]

It is generally forbidden to eat anything before davening except for water and, for some, tea and coffee (with various opinions about sugar - see Shulchan Aruch, Orach Chayim 89:3 and Mishna Berura ad loc. 22). However, it is permissible to eat food for a health need, even when one is not fully sick (Mishna Berura 89:24). Anyone who has a prescription for medical marijuana is sick enough to

be justified to ingest his treatment as needed.

Regarding Kiddush, there is a quandary. Assuming the brownies have a decent taste, they require a b'racha, even though their main purpose is medicinal (Mishna Berura 204:42). Therefore, the halacha is that you should not eat it before Kiddush. On the other hand, you don't need the Kiddush wine for health reasons, so what justifies Kiddush before davening? The Bi'ur Halacha (to 289:1) says that one makes Kiddush before pre-davening eating for health purposes. The Igrot Moshe (OC II:26) disagrees in a case where not all halachic opinions agree that the food lends itself to Kiddush, which raises the purpose that the wine was not justified. However, assuming the brownies are real flour-based cookies and you are having a k'zayit of them, Kiddush is in place (see Mishna Berura 273:25).

Is it preferable to ingest the active ingredient as a non-food, to avoid the undesired situation of eating and Kiddush before davening? This "improvement" makes the halachic situation worse regarding medicines on Shabbat, which are permitted in a food form that is not recognizable as medicinal (see Orchot Shabbat 20:132). While the need likely justifies taking medicine (see Shulchan Aruch, OC 328:17), the halachic issue of eating before davening is easier to waive than that of taking medicine on Shabbat. In the



absence of a net gain by an alternative, the medicated brownies are fine.

Now to Birkat Kohanim. The gemara (Ta'anit 26b-27a) derives from a connection between Birkat Kohanim and both nazir and service in the Beit HaMikdash that it is forbidden to duchen when drunk. The gemara indicates this is only a Rabbinic derivation/halacha. A nazir is forbidden only in grape products and service is fully forbidden only after drinking wine (see K'ritot 13b). Therefore, some say that there are no restrictions on Birkat Kohanim after consuming something intoxicating unless he is as drunk as biblical Lot was (Magen Avraham 128:55). The Taz (128:35) disagrees and disqualifies one who has drunk anything that makes him unfit to "speak before a king", and we are stringent to follow this opinion (Mishna Berura 128:141). The halachic cut-off point - wine of a revi'it (Shulchan Aruch, OC 128:38) does not apply to other drinks. While the Taz says one should therefore not drink anything intoxicating before Birkat Kohanim, this is reasonable for those who are drinking recreationally, not for one whose use of something "intoxicating" is medically necessary. (see Chayei Adam I, 32:7 regarding Kiddush on a small amount of whiskey before Birkat Kohanim.) Therefore, assuming you will make Kiddush on grape juice and that during Birkat Kohanim you will be acting in a fully presentable manner,

you should perform the Torah-level mitzva of Birkat Kohanim.

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