Treatment of the Dying Person in Modern Jewish Law

Jewish law is an organic body running from scriptural sources to rabbinic experts responding to the latest advances and problems in medicine today. What we find in these sources is not always uniformity of opinion. Instead, we find legal experts trying to conform to basic ethical principles in deciding how to act on specific cases. Instead of regarding any one code of law or any one person as an ultimate authority, on life-and-death questions, there is unity of commitment to such principles as the saving of life (*piqûah nefesh* derived from “and live by them,” (Lev. 18:5*)* and the duty to heal derived from “You are to take exceeding care for yourselves” (Deuteronomy 4:15).

The basic principles that have governed Jewish practice on treatment of the dying person (*goses)* apply to contemporary Jewish medical ethics: no active measures to hasten death are allowed but impediments to dying may be removed. The supreme value of life has its origins in Biblical law and ethics and these principles are meant to uphold that. Technological advances in medicine have raised numerous challenges on how to apply them today.

All of what follows is general and each case must be considered individually. There are too many variables in both the patient’s condition and the therapies available that generalities should not be treated as more than guidelines in a given case.

If a procedure or medication can relieve suffering, may it be used if it also causes some risk of death? Morphine eases pain but can also shorten a patient’s life. Pain itself is regarded as a disease and such drugs may be administered as therapy. The same is true for other treatments so long as there is a possibility of healing and extending life. Often the value of a treatment may be in doubt and in the case of a terminal condition the patient has a right to refuse treatments of uncertain value. However not even a terminal patient should be allowed to effectively commit suicide by refusing treatments that will prematurely end life. The balance between treatments that alleviate suffering and those which extend suffering is a difficult one.

There is a distinction between the nonterminal patient and the terminal patient. The nonterminal patient cannot refuse treatments that are proven to treat or cure a disease as this would amount to suicide. There might be treatments and therapies that will alleviate the symptoms of terminal diseases and prolong life with reduced suffering. The ethical principle of *piquah nefesh* (saving life) applies here and such treatment should not be withheld or refused. Treatments that are experimental are painful, or that extend the life of a terminal patient without alleviating suffering might be refused or withdrawn.

Such devices as mechanical respirators and heart-lung machines are sometimes used under emergency conditions and for some surgical procedures. Once such a device maintains life even though there is no longer any therapeutic effect or hope of recovery it becomes an impediment in the process of dying (“salt on the tongue” *Shulhan Arukh; Yoreh Deah 339*) and may be removed. Such a case would be when it is clear that the patient lacks the ability to maintain respiration and a heartbeat without mechanical aid.

Perhaps the most controversial issue is that of artificial nutrition and hydration. Usually, when such measures are employed, the patient is unable to eat or drink in the normal way. If such measures are stopped it is clear that the patient will die. Are feeding tubes, for example, medical procedure or normal care? Jewish law usually judges feeding as life-sustaining rather than treatment. Therefore such measures must not be discontinued, even if that is the wish of the patient, because withdrawing nutrition amounts to suicide. A minority of authorities argue that, if a disease has made eating and drinking impossible and the patient is terminal, there is no difference between such measures as respirators and feeding tubes. They are both procedures used to treat disease, but if there is no hope the patient will survive the disease then dehydration and starvation are the result of the disease and such treatments may be withdrawn.

As new medical procedures and technologies come into use each of these will have to be judged by experts in medicine and Jewish law to determine whether applying, withholding, or discontinuing them meets the requirements of saving life and the duty to heal. It should be understood, however, that a decision on a specific case must consider a variety of sources and opinions. Jewish law is therefore a living process that stands on tradition and depends on scholarship and creative thought.

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