

Terminally Ill Halachic Questions

Representative from the Audience

1. Under which circumstances is it permissible to refrain from commencing medical treatment for a terminal patient? E.g. resuscitation, artificial respiration, dialysis, radiation, chemotherapy, intravenous nutrition or gastrostomy, intravenous liquids.
2. Are there situations where it is permitted to terminate treatment of a terminally ill patient?
Is it permissible to disconnect the patient from the respirator in light of severe suffering on his part?
3. What is the status of the family with regard to deciding whether to continue or terminate medical treatment?

Approaching Death

Synopsis of the Responsa

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The Ban on Murder

Killing a human being is forbidden whether directly or indirectly (such as by poison or poisonous medicine). The prohibition applies equally whether the person killed is healthy, sick, or dying. As long as a person is alive it is forbidden to kill him, and this is the ban on murder referred to in the Ten Commandments.

Sources: *Exodus* 20:13; Rambam, *Rotzeach* 1:1, 2:1-7; *Sefer Assia* 4, pp. 260-262.

The Obligation to Save Life

There is a duty to save life. Anyone who is able to save another person's life but fails to do so infringes the law "You are not to stand (idly) by the blood of your fellow-Israelite (*Lev. 19:16*).” This applies, for example, to a doctor who fails to treat a patient properly, resulting in the patient's death. He is a sinner, but not a murderer.

Sources: *Lev. 19:16*; *Sanhedrin* 73a; Rambam, *Rotzeach* 1:14.

The Saving of Life Overrides the Sabbath

In order to save or extend a life, even temporarily, any ban in the Torah may be set aside apart from: idolatry, serious sexual offenses (adultery, homosexuality, incest, bestiality) and murder. The laws of the Sabbath may therefore be overridden to extend the life even of a person who is dying and has no chance of living more than a short period.

Sources: *Yuma* 83a-85b.

Removing an Impediment to Death

When someone is already dying but external causes, such as a loud noise or grains of salt on his tongue, impede his death, the noise may be silenced or the grains of salt carefully removed although we know that after removing the impediment he will die within a shorter time.

Source: Rema, *Yoreh Deah*, 339:1.

The Difference between the Duty to Extend Life and Permission to Remove an Impediment to Death

Permission to remove anything that impedes death appears to contradict the duty to extend the life even of one who is dying. Three different approaches have been adopted in explaining this apparent contradiction.

(a) The first approach considers whether or not the patient gains in any way from the extension of his life. If there is any useful purpose in extending his life, for example if he is conscious and able to think and maintain contact with those around him by speech or even by signal, there is a duty to extend his last hours even if he is dying and suffering. On the other hand if the patient gains nothing by a short extension of his suffering and his death is preferable to his life, there is no duty to extend his last hours. There is therefore no duty to extend the life of a terminal patient who is in the state of a “vegetable” or who is unconscious such that the extension of his life serves no purpose whatsoever.

(b) The second approach makes a distinction between saving a life by natural means, including the supply of basic necessities such as oxygen, liquids, food and medicine, and the interruption of external impediments to death without withholding basic necessities.

(c) The third approach distinguishes between normal treatment and special treatment. Normal treatment may not be stopped even if it involves breach of the laws of the Sabbath, but there is no obligation to provide special, unusual treatment. It is therefore essential to continue the supply of oxygen, liquids, food and normal medicines, but there is no obligation to operate on a dying patient or to apply resuscitation after his heart has stopped beating.

In this approach there are types of treatment that may be considered normal for one patient but special for another. For example, for one who is undergoing dialysis, such treatment is normal and must be continued to the very end. On the other hand one who is suffering from cancer which in the last days of his life spreads to his kidneys need not be treated with dialysis which can at best extend his last days a little since such treatment is regarded for him as special.

Sources: *Nishmat Avraham* 2, 339:4; *Enc. Hilchatit Refu'it*
s.v. *lamut* note 4 (pp. 401-416).

The Halachic Decision

If the conditions permitting non-treatment according to all three approaches apply, the treatment need not be given. Even when the third approach alone applies, non-treatment might be permissible since there are leading rabbis who have permitted this.

Source: *Nishmat Avraham, ibid.*

The Status of the Family

The family has no independent status in deciding whether treatment should be continued or not.

There are two reasons for this:

- (a) The family has no right to ask the doctor to act contrary to the halacha.
- (b) There are cases where the family has an interest in the patient's demise.

Despite this, the family's opinion should in practice be heard since they are most aware of the overall situation. There are other reasons to take their opinions into consideration. However, relying solely on the family can at times be dangerous. There have even been occasions when the patient himself, feeling that he is a burden on the family, has asked to die in order to relieve them of that burden.

In practice the final decision must involve detailed investigation and full consultation between the doctors, the family and the rabbis.

Source: Resp. *Melammed Le-Ho'il* 2:104.

General Principles *vis-à-vis* Halacha in Practice

These are merely general principles. In practice, each case must be considered independently on its own merits. The family should always consult someone suitable who understands both the medical and the halachic aspects. Such a person, after examining the situation in detail and clarifying it in his own mind, will be able to consult a rabbinical expert who will decide each case on its own merits.

Source: *The First International Colloquium on Medicine, Ethics & Jewish Law*, July 1993, pp. 338-341 (Schlesinger Institute, Jerusalem, 1996)