The Dying Patient Law, 2005*

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Chapter 1: Goal and Fundamental Principle

Goal — 1. (a) This Law regulates the medical treatment of the terminally ill patient based on an appropriate balance between the value of the sanctity of life, the value of the individual's autonomous will, and the importance of quality of life.

(b) This Law is based upon the values of the State of Israel as a Jewish and democratic state and on fundamental principles in the realm of morality, ethics and religion.

Fundamental Principle — 2. In prescribing the medical treatment of the terminally ill patient, his medical condition, his will and the degree of his suffering are the exclusive considerations.

Chapter 2: Definitions

Definitions — 3. In this Law:

"A close person" – A person who, in the view of a responsible physician, pursuant to the directives of the Minister under section 60(a)(1), satisfies these two conditions:

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* *Statute Book* 2039, pp. 58, 14 *Keslev* 5766, 15.12.2005

(1) Has a familial or emotional connection to the terminally ill patient and is devoted to him;
(2) He is well acquainted with the terminally ill patient, based on a continuous and long-lasting relationship during the period preceding his medical treatment or in the course thereof.

"Guardian" – guardian of the person;

"Competent" – a person to whom all of the following apply:
(1) He is seventeen years old or older;
(2) He is able to express his will;
(3) He has not been declared legally incompetent;
(4) He has not been excluded from the presumption of competency as stated in section 6;

"Director General" – the Director General of the Ministry of Health;

"Prior medical directives " – medical directives given by a person in accordance with the provisions of Chapter 5;

"Informed consent" – within the meaning of Chapter 4 of the Patient's Rights Law;

"National Committee" – The committee appointed pursuant to the provisions of section 50;

"Institutional Committee" – A committee appointed pursuant to the provisions of section 45;

"Terminally ill patient" – A patient regarding whom it was determined pursuant to the provisions of section 8(a) that he is a terminally ill patient;

"An end-stage patient" – A patient regarding whom it was determined pursuant to the provisions 8(b) that he is an end-stage patient;

"Patient's Rights Law" – Patient's Rights Law, 5756-1996.[1]

"Palliative care" – Palliative care as stated in Article 5 of Chapter 4;

"Medical treatment", "patient", "medical information", "medical emergency" and "medical record" – as defined in the Patient's Rights Law;

"Cyclical medical treatment" – any of the following:

(1) Medical treatment administered cyclically and with interruptions, regarding which it is possible to clearly and practically distinguish between the end of one cycle of treatment and the beginning of the next cycle;

(2) Treatment that was planned in advance, using appropriate technological means, for being administered cyclically, even though in its essence it was administered in a continuous and non-interrupted manner;

"Continuous medical treatment" – medical treatment which by its essence is administered continuously and without interruptions, excluding periodic medical treatment as defined in section 2 of the definition of cyclical medical treatment;

"Power of attorney" "Representative" – as defined in section 37, with respect to the representative, including a substitute;

"Database" – The database established in accordance with Article 5 of Chapter 5;

"Medical institution" – a hospital within the meaning of section 24 of the Health Ordinance of 1940,[2] a clinic within the meaning of section 34 of the aforementioned Ordinance, as well as

[1] S.H. 5756, p. 327.

[2] O.G. 1949, Supp.1 p 191 (a) 239.

a sick fund, within the meaning of the National Health Insurance Law, 5754-1994;[3]
"caregiver" – Physician, nurse, social worker and psychologist;
"Significant suffering" –
(1) As defined by a person who has given advance medical directives, in those directives, or by a person who has granted power of attorney, in that power of attorney;
(2) In the absence of a definition as stated in paragraph (1), pain or suffering that a reasonable person would be prepared to make a substantial effort in order to avoid or discontinue, even if it involved significantly impairing his quality of life or of his life expectancy.

"Social worker" – As defined in the Social Workers Law, 5756-1996;[4]
"Psychologist" – a person registered in the Register of Psychologists pursuant to the Psychologists Law, 5737-1977;[5]
"Physicians Ordinance" – Physicians' Ordinance [New Version] 5737-1976;[6]
"Minor" – A person not yet 17 years old;
"Physician" – A licensed physician within the meaning of the Physicians Ordinance;
"Specialist" – A physician accredited as specialist according to the Physicians Ordinance;
"Responsible physician" – One of the following:
(1) Director of a department or a unit, in a medical institution, who is responsible for the medical treatment of the terminally ill

[3] S.H. 5754, p.156.
[4] S.H 5756, p.152.
[5] S.H. 5737, p. 158.
[6] *Laws of the State of Israel*, New Version, 30, p. 594.

patient, or a specialist who has been appointed by the director of the medical institution, the director of the department or the director of the unit – with regard to patients being treated in a medical institution;

(2) A district physician of a sick fund, or a physician appointed by him – with regard to patients cared for in the community;

(3) A physician as stipulated in sections (1) or (2) – also in respect of patients not being treated in a medical institution or by a sick fund.

“Personal physician" – A physician, who is closely acquainted with the patient, and his wishes and positions regarding his medical treatment, whether a family physician of the patient or a physician who coordinates the treatment of the patient in the community or in a medical institution;

“The Minister” – The Minister of Health.

Chapter 3: The Will to Live and Competence – Presumptions

Presumption of a will to live

4. A person shall be presumed to wish to continue living, unless proven otherwise; if not proven otherwise beyond any reasonable doubt – the tendency should be to decide in favor of the wish to continue living.

Exclusion from the presumption of a will to live

5. A terminally ill patient shall not be excluded from the presumption that he wishes to continue living, and medical treatment shall not be withheld from him under the provisions of this Law, except in accordance with the conditions enumerated in this section, as the case may be,

(a) Where the terminally ill patient is competent – based on his explicitly expressed wish;

(b) Where the terminally ill patient is incompetent and is seventeen years old, based on one of the following:
   (1) Advance medical directives that he gave and which that satisfy the provisions of sections 33 and 34(a);
   (2) A decision of a representative in accordance with a power of attorney that satisfies the provisions of sections 38 and 39(a);
   (3) A decision of an institutional committee or the National Committee rendered in accordance with the provisions of Chapter F.

(c) In the absence of directives or decisions as specified in subsection (b) – based on the decision of a responsible physician, provided that such decision is adopted having consideration for –
   (1) An explicit declaration of a close person to the effect that the terminally ill patient does not wish to continue living;
   (2) In the absence of such a declaration – having consideration for the position of the terminally ill patient’s guardian, who is a close person, to the extent that such exists, to the effect that the terminally ill patient's wish is that his life not be prolonged.

Presumption of competence

6. A person who is seventeen years or older and has not been declared legally incompetent is presumed to be cognitively, mentally, and emotionally competent to make decisions concerning his medical treatment based on understanding and discretion, and free will.

Exclusion from the presumption

7. A terminally ill patient may not be excluded from the presumption of competence as defined in section 6 for purposes of this Law,

– of competence		other than by a thorough, reasoned, and documented medical decision rendered by the responsible physician after consulting with the caregivers of the terminally ill patient and with relevant physicians or experts, as the case may be, and if possible with his personal physician.

Chapter 4: The Treatment of the Terminally Ill Patient

Article A: General

Determining a patient's medical condition	8.	(a) A responsible physician is authorized to determine that a patient is a terminally ill patient, if satisfied that the patient is suffering from an incurable medical problem and that his life expectancy, even if receiving medical treatment, does not exceed six months.
		(b) A responsible physician is authorized to determine that a terminally ill patient is an end-stage patient, if satisfied that he is in a medical condition in which a number of vital systems in his body have failed and his life expectancy, even if receiving medical treatment, does not exceed two weeks.
		(c) A determination of a responsible physician in accordance with this section will be made following a consultation with the experts treating the patient and if possible also with his personal physician.
Determining the wish of the patient	9.	Where a responsible physician has determined that a patient is a terminally ill patient

Reporting intent to act and disclosure of information

10. (1) The responsible physician or a person authorized by him for this purpose, will make a reasonable effort to obtain all the pertinent data and the documentation for the determination of the patient's wish, pursuant to section 5(b) and (c) and all in accordance with the rules established for that purpose in the regulations;

(2) The responsible physician or a person authorized by him for this purpose, will check in the database whether according to the records therein, the patient has given advance medical directives, or appointed a representative; where a responsible physician, or a person authorized by him for this matter, has determined, based on the clarification by way of the database or in any other manner, that the patient has given advance medical directives, or appointed a representative, the responsible physician, or a person authorized by him for this matter, will add that information to the medical record conducted in respect of that patient.

(a) Where a responsible physician has determined that a patient is a terminally ill patient, and is incompetent, the responsible physician or a person authorized by him for that purpose, will notify the patient's representative, close person, and his guardian, if such exist and if they can be located with reasonable effort, that he intends to act in accordance with the patient's advance medical directives or in accordance with the representative's directives, as the case may be.

(b) A responsible physician will disclose medical information regarding an incompetent terminally ill patient and will enable examination of his medical record by a person whose opinion is required in order to adopt a decision on the treatment to be given to him in accordance with this Law.

(c) The provisions of any law prohibiting the disclosure of medical information will not pertain to the disclosure of information according to this section

Deliberation and documentation

11. (a) Where a responsible physician has determined that a patient is a terminally ill patient, he will, as soon as possible, conduct a detailed consultation with the other caregivers who are caring for the patient, regarding the patient's medical condition and the medical treatment that should be given to him, and will decide on the matter, all in accordance with the provisions of this Law.

(b) Where a responsible physician has determined the type of medical treatment to be provided to the terminally ill patient, he will record the consultation process, the decision adopted and its reasons in the medical record; the provisions of this section are in addition to the documentation provisions of section 17 of the Patient's Rights Law.

The duty to reevaluate

12. The responsible physician must periodically evaluate the competence, the medical condition, and the wish of the terminally ill patient; where a change has occurred in any of the above, he must adopt a new decision regarding the type of his medical treatment.

Article B: A Terminally Ill Patient Requesting Extraordinary Life-Prolonging Treatment

The terminally ill patient's right to receive extraordinary life-prolonging medical treatment

13. Where a terminally ill patient who wishes to prolong his life and requests medical treatment that the responsible physician considers to be unjustified under the circumstances, his wish should be respected and the requested treatment should be provided in accordance with any other law and in accordance with the conditions and the arrangements prevailing from time to time in the Israeli medical system; the provisions of this section will not apply to medical treatment that in the opinion of the responsible physician is not expected to prolong the life of the patient, or liable to significantly harm the patient or someone else.

Determining the wish to receive extraordinary life-prolonging treatment

14. The terminally ill patient's wish regarding the receiving of medical treatment as stated in section 13, will be determined according to the following specifications, as the case may be:
    (a) When a terminally ill patient is competent – according to his expressed explicit wish;
    (b) When a terminally ill patient is incompetent and is 17 years old, according to one of the following:

(1) According to advance medical directives given by him, that satisfy the provisions of sections 33 and 34(a);

(2) According to a decision of his representative based on a power of attorney that satisfies the provisions of sections 38 and 39(a);

(3) According to a decision rendered by an institutional committee or the National Committee that satisfies the provisions of Article F.

(c) In the absence of directives or decisions as specified in subsection (b), according to –

(1) An explicit statement of a close person regarding the wish of the terminally ill patient;

(2) And in the absence of such a statement, the wish of the terminally ill patient will be ascertained in accordance with the position of his guardian who is a close person, if such exists.

(d) The provisions of section 9(1) will also pertain with regard to this section mutatis mutandis.

Article C: A Terminally Ill Patient Who Does Not Wish To Have His Life Prolonged

Withholding Medical Treatment from a competent terminally ill patient

15. (a) When a competent terminally ill patient does not want his life prolonged his wish should be respected and his medical treatment withheld

(b) The caregivers of the terminally ill patient as stated in subsection (a) will make a reasonable effort to persuade him to receive oxygen, nutrition and hydration, even by artificial means, and to receive routine treatments required

for the treatment of simultaneous or background illnesses as well as palliative care.

Withholding medical treatment from an incompetent terminally ill patient

16. (a) Where an incompetent terminally ill patient is suffering significantly, and in respect of whom it has been determined pursuant to the provisions of section 5(b) that he does not want his life prolonged, medical treatment relating to his incurable conditions should be withheld from him, including tests, operations, resuscitation, ventilation, chemotherapy, radiation or dialysis, all in accordance with his wish as ascertained pursuant to section 5(b).

(b) (1) In this subsection, ancillary treatment" – medical treatment of the terminally ill patient, that is totally unrelated to his incurable condition, including routine treatments necessary for the treatment of simultaneous or background illnesses and palliative care, as well as nutrition and hydration even by artificial means.

(2) Ancillary treatment should not be withheld as stated in subsection (a), even if the terminally ill patient's wish as ascertained pursuant to section 5(b) is not to receive medical treatment.

An incompetent end-stage patient

17. Notwithstanding the provisions of section 16(b), where an incompetent end-stage patient is suffering significantly, and in respect of whom it was determined pursuant to section 5 (b) that he does not want his life prolonged, all medical treatment should be withheld from him, including ancillary treatment as stated in section 16(b)(1), all in accordance with his wish as ascertained

pursuant to section 5(b); Notwithstanding the abovementioned in this section, hydration should not be withheld, even by artificial means, unless the responsible physician has determined that provision of fluids causes suffering or harm to the patient.

A medical emergency

18. (a) If the terminally ill patient is in a state of medical emergency, the provisions of section 15(3) of the Patient's Rights Law will apply, the caregiver becomes aware that it was determined pursuant to section 5, that the terminally ill patient wishes to have medical treatment withheld in such a case;

(b) Notwithstanding that which is stated in subsection (a), with respect to an end-stage patient in a state of medical emergency, it is permitted to withhold life saving medical treatment, unless the caregiver becomes aware that it was determined pursuant to section 14 that the end stage patient wishes to receive medical treatment in such a situation.

Article D: Prohibited Acts

Prohibition of active killing

19. Nothing in these provisions shall permit an act, even if constituting medical treatment, is intended to cause death, or which will almost certainly result in death, irrespective of whether or not it was motivated by kindness and compassion, and irrespective of whether or not it was at the request of the terminally ill patient or any other person.

Prohibition of assisted suicide

20. Nothing in the provisions of this Law shall permit any act, even if constituting medical treatment, that contributes to assisted suicide, irrespective of whether or not it was motivated by kindness and compassion, and irrespective of whether or not it was at the request of the terminally ill patient or any

other person.

Prohibition of withdrawal of continuous medical treatment — 21. Nothing in the provisions of this Law shall permit the withdrawal of the continuous treatment of a terminally ill patient that is liable to cause his death, irrespective of whether or not he is competent; however it is permitted to refrain from the renewal of continuous treatment that was withdrawn unintentionally or not in contravention of the law, and it is also permitted to avoid the renewal of cyclic medical treatment, all subject to the provisions of Article C.

Maintaining status quo when applying to an institutional committee — 22. Should it become known to a responsible physician that there is a dispute regarding a decision or a determination concerning a terminally ill patient, and that a person has applied to an institutional committee or intends to apply to an institutional committee in order to resolve the dispute, the responsible physician will act in a way that enables the continued life of the terminally ill patient, provided that if possible, this should be done by non-continuous medical treatment.

Article E: Palliative care

Providing Palliative care — 23. (a) The responsible physician will make sure that everything possible is done in order to alleviate the pain and suffering of a terminally ill patient, even if this involves a reasonable risk of the patient's death, including by means of medication, pain killers, or psychological methods, nursing, and environmental measures, and all in accordance with the appropriate principles of palliative care and in accordance with the conditions and arrangements prevailing from time to time in the Israeli health care system,

and in accordance with the wish of the terminally ill patient, pursuant to the provisions of this Law and pursuant to the provisions of the Patient's Rights Law.

(b) The responsible physician will make sure that everything possible is done in order to alleviate the burden on the family members of a terminally ill patient and to ensure their well being during the patient's stay in the medical institution, all in accordance with the appropriate principles of social work and palliative care and in accordance with the conditions and arrangements prevailing from time to time in the Israeli health care system.

Article F: Treatment of the Terminally Ill Minor

Authority of parents of a minor

24. A minor's parent is authorized to represent him regarding his medical treatment, whether in the matter of prolonging his life or in the matter of refraining from prolonging his life; a guardian of a minor, who is a close person, is permitted to voice his position in this matter and the responsible physician is permitted to act in accordance therewith; if he has no parents, or the parents' guardianship has been revoked and no other guardian has been assigned for the minor, or if his guardian is not a close person, the institutional committee will make a decision in respect of him.

Hearing the position of a minor

25. A minor who is a terminally ill patient is entitled to participate in the adoption of a decision regarding his medical treatment, if these two conditions are satisfied:

(1) The minor is aware of his condition and requests to participate in the adoption of the decision regarding him;

(2) The responsible physician determines that the minor's cognitive and mental capacity and maturity enable his participation in adopting the decision regarding him.

Giving medical information to a minor

26. A responsible physician will give the minor information that pertains directly to his health or his medical treatment, if these two conditions are satisfied:

(1) The responsible physician is convinced that giving the information, or a part of it, will not cause physical or mental harm to the minor, or endanger his life;

(2) The responsible physician has determined that the minor's cognitive and mental capacity and maturity enable him to appropriately understand the information and its meaning.

Duty of consultation

27. Decisions as stated in sections 25(2) and 26 will be adopted after consultation with the minor's parents, his guardian if appointed, the minor's caregivers, and the relevant physicians or experts, as appropriate, and if possible with his personal physician.

Resolving dispute in the matter of a minor

28. (a) In the event of a dispute between the parents of a minor who is a terminally ill patient, or between them and the responsible physician, with regards to his medical treatment, an institutional committee will resolve the matter.

(b) Where there is a dispute between a minor who is a terminally ill patient and his parents, or between them and the responsible physician, with regards to his medical treatment, the following provisions shall reply:

(1) Where the minor expressed his wish for his life to be prolonged the responsible physician will act in accordance with that wish,

subject to the provisions of this Law;

(2) If a minor less than 15 years of age has expressed his wish that his life not be prolonged, an institutional committee will decide on the matter.

(c) When an institutional committee discusses the matter of a minor who is a terminally ill patient, it should hear the minor's position as well, if expressed, and the committee should also receive the particulars of the information that was given to the minor.

(d) The institutional committee will take the best interests of the minor into account among its other considerations, and will be entitled to determine that his life should not be prolonged, if convinced that prolonging his life would not be in his best interests, subject to the provisions of subsection (b)(1).

Article G: Treatment of the Terminally Ill Protected Person

29. (a) In this Law, "protected person" – a person regarding whom all of the following apply –

(1) He cannot, routinely, take care of his own matters because of a cognitive or a mental handicap;

(2) The condition as stated in section (1) existed before it was determined that he is a terminally ill patient;

(3) There are no valid advance directives or valid power of attorney relating to him.

(b) If a protected person expressed his wish for his life to be prolonged the responsible physician will act in

accordance with his wish, subject to the provisions of this Law; if the protected person expressed his wish for his life not be prolonged, an institutional committee will decide upon the matter; the provisions of sections 25, 26 and 27 will apply mutatis mutandis, as the case may be.

(c) If the protected person's wish is unknown, and the responsible physician and the guardian have agreed to prolong his life – the responsible physician will act accordingly, subject to the provisions of this Law; in any other case – the institutional committee will decide in the matter of the protected person.

(d) The institutional committee will consider the best interests of the protected person amongst its other considerations and will be entitled to determine that his life should not be prolonged, if convinced that prolonging his life would not be in his best interests, subject to the provisions of subsection (b).

Chapter 5: Advance Expression of a Wish

Article A: Methods of Expressing Advance Directives

Advanced Expression of Wish

30. A person is entitled to express his wish in advance, regarding his medical treatment in the case of his becoming an incompetent terminally ill patient by providing advance directives, appointing a representative, or a combination of both, based on the provisions of this chapter and provided that he does so of his own free and independent will and not under family, social, or any other type of pressure.

Article B: Advance Medical Directives

Advance medical directives

31. A competent person is entitled to give advance medical directives in which he explains his wish in detail with respect to his future medical treatment if it is determined that he is an incompetent terminally ill patient, all in accordance with the provisions of this Law.

Medical information for giving advance medical directives

32. (a) Advance medical directives will be given after the person giving the directives has received from a physician or a certified nurse such medical information as is reasonably required for the sake of providing advance medical directives (in this Law – the information giver).

(b) Notwithstanding the provisions of subsection (a), where a determination has been made pursuant to the provisions of this Law that a person is a terminally ill patient, he will give advance medical directives after receiving information regarding his medical condition from an expert physician, including medical information regarding his condition that is relevant for giving the directives as well as the medical information reasonably required for giving advance medical directives.

Methods of providing directives and their documentation

33. (a) Advance medical directives will be given in writing, on an advance medical directives form, the wording of which appears in the First Supplement, signed by the directives giver in the presence of two witnesses who have no financial or other interest in respect of the directives giver, and who are not a representative, although one of the

witnesses can be the information giver; the witnesses will confirm that the directives giver signed as stated by signing the form on the same occasion.

(b) Advance medical directives may include the definition of significant suffering as provided by the directives giver and will also include –

(1) A declaration that the directives are given of his own free will, based on his own understanding and discretion;

(2) A summary of the medical information that was provided to the directives giver, as stated in section 32; the summary will be registered by the information giver, who will confirm by his signature that he gave the information to the directives giver and that he explained all the medical terms to the directives giver pursuant to the provisions of section 13(b) of the Patient's Rights Law.

(c) Advance medical directives may be given in other ways, as determined by the Minister, with the approval of the Labor, Welfare and Health Parliamentary Committee, and they may be determined as stated in general or for specific types of cases that he determines.

Validity of advance medical directives

34. (a) Advance medical directives shall remain valid for five years after the signing date of the advance medical directives form unless a shorter period was stipulated, and their validity may be extended for additional periods, each one of which shall not exceed five

years; the extension will be effected by means of the extension form in the Third Supplement.

(b) Advance medical directives that do not comply with all the provisions of this section or advance medical directives that have expired according to subsection (a) are not valid, but the responsible physician should examine them and may take them into consideration with regards to sections 5(c) and 14(c).

Unclear or inappropriate directives

35. Where it is impossible to clearly ascertain the wish of a terminally ill patient based on the advance medical directives that he gave, or where the advance medical directives are inappropriate under the circumstances of the case, or in the absence of a representative or clear testimony of a close person – the institutional committee will resolve the matter.

Absence of advance medical directives

36. The absence of advance medical directives does not, in and of itself attest to the wish of the terminally ill patient regarding his medical treatment or the withholding of treatment from him.

Article C: Power of Attorney

Representative

37. (a) A competent person is entitled to appoint a representative using the form the wording of which appears in Supplement Two and in that power of attorney he is entitled to appoint a substitute for the representative.

(b) The representative will be authorized to decide in his stead regarding the medical treatment that he will or will not be provided with if the terminally ill patient becomes incompetent; should the representative be unable or

unwilling to fulfill his role at the designated time, the substitute representative will become the representative.

(c) The power of attorney will specify the circumstances and the conditions under which the representative is authorized to make the above decisions.

(d) Should the representative be appointed with regards to specific medical conditions or specific medical treatments – the person giving the power of attorney will receive medical information in accordance with the provisions of section 32, mutatis mutandis.

Methods and documentation of appointment

38. (a) A power of attorney will be given in writing, of free and independent will, based on understanding and discretion, and will be signed by the person granting the power of attorney and by two witnesses who have no financial or other interest in respect of the person granting the power of attorney, and who are not representatives, but one of them can be the information giver as stated in section 37(d); the power of attorney may include the definition of significant suffering as provided by the person granting the power of attorney and should also include –

1. A statement that the power of attorney is given out of free will, based on understanding and discretion
2. Where the power of attorney granted as stated in section 37(d), the provisions of section 33(b)(2) will apply mutatis mutandis.

(b) In the power of attorney the person

granting the power of attorney will indicate that the representative will be authorized to adopt decisions in his place regarding his medical treatment in the event that he becomes an incompetent terminally ill patient, and he can specify the circumstances and the conditions under which the representative will be authorized to make decisions in his stead regarding all or some of his medical treatments

(c) Appointment of a representative may be effected in other ways, to be determined by the Minister, with the approval of the Labor, Welfare and Health Parliamentary Committee, and they may be determined as stated in general or for specific types of cases that he determines.

Validity of power of attorney

39. (a) A power of attorney will be valid for five years, and its validity may be extended for additional periods none of which shall exceed five years; the extension will become effective by using the extension form, the wording of which appears in Supplement Three.

(b) Where the power of attorney does not specify the period of its validity, it will be valid for five years from the date on which it was given; where a person has not renewed a power of attorney that he gave, or the period of its validity is not determined, the power of attorney will not be considered valid, but the responsible physician should examine it and he may take it into consideration with regards to sections 5(c) and 14(c).

Objection to a representative's decision

40. Where a person has a reasonable suspicion that a representative is not acting according to the wish of the terminally ill patient or

out of a conflict of interests, he may apply to the institutional committee; where the institutional committee is satisfied that the representative's acts are based on motivations that do not reflect the wish of the terminally ill patient or out of a conflict of interest, it is entitled to determine the appropriate medical treatment for the terminally ill patient or to cancel the power of attorney.

Article D: General Provisions

Duty to inform

41. Where a responsible physician determines that a patient is a terminally ill patient, and that he is competent, the responsible physician will inform him regarding the possibility of giving advance medical directives or appointing a representative, or inform him regarding the possibility of updating advance medical directives or the power of attorney that he gave; for this purpose, an expert physician will provide him with the necessary medical information, subject to the provisions of section 13(d) of the Patient's Rights Law.

Possibility of Combination

42. (a) A person is entitled to combine giving advance medical directives pursuant to the provisions of Article B with the appointment of a representative according to the provisions of Article C.

(b) In the advance medical directives and in the power of attorney a person is entitled to include directives for a case in which there is a contradiction between an advance medical instruction and a provision in the power of attorney.

(c) In the absence of a directive as stated in subsection (b) the advance directive

will prevail; however, if the power of attorney was given at a significantly later period than the giving of the directive, the matter will be submitted for the resolution of an institutional committee that will determine whether the power of attorney prevails over the advance medical directive.

Modification and cancellation

43. (a) (1) If advance medical directives were given and then given again, the advance medical directives most recently given will prevail; the same will apply to the appointment of a representative pursuant to this Law.

(2) Advance medical directives or a power of attorney may be cancelled by way of a form in the wording appearing in Supplement Four, in writing, in the presence of two witnesses or in another way as determined by the Minister pursuant to sections 33(c) or 38(c).

(b) Modification or cancellation in favor of the wish to continue to live in a medical emergency can be unwritten and one witness will suffice; provided that the directive regarding the medical treatment in said medical emergency and the testimony be documented in writing as soon as possible thereafter; when the medical emergency has passed, the valid advance medical directives or the power of attorney retain their validity, unless one of the following is the case:

(1) The directives or the power of attorney were cancelled pursuant to the provisions of subsection

(a).

(2) The patient was unable, reasonably, to modify or cancel the directives or the power of attorney.

(c) Notwithstanding the provisions of subsection (a), where a person is unable to modify or cancel advance medical directives or power of attorney that he gave in the manner prescribed in that subsection, whether in favor of the wish to live or not in favor of the wish to live, by reason of an illness or defect that renders him incapable of performing the required practical actions, he may give his directives by way of another person, under the conditions and in the manner determined by the Minister.

Article E: Database

Database 44. (a) The Minister will establish a database in which advance medical directives and powers of attorney will be registered and will appoint a person to be responsible for the database.

(b) Any person is entitled to request the registration in the database of advance medical directives or powers of attorney that he gave, as well as any cancellation or modification thereof as stated in section 43, by notifying the person responsible for the database.

(c) Once every five years at least the person responsible for the database will send reminders to the person registered in the database, to his address as appearing in the population register, or to any other address specified in the registration request, to

renew the advance medical directives or powers of attorney.

Chapter 6: The National Committee and Institutional Committees

Article A: Institutional Committee

Appointment of institutional committees

45. (a) The Director General is entitled to instruct the director of a medical institution to appoint an institutional committee; where the Director General has given directives as stated, the director of the medical institution, in consultation with the chairman of the national committee and having received the approval of the Director General, will appoint an institutional committee.; And these are its members:

(1) Three physicians, who are not treating the patient directly, who are experts in one of these disciplines: internal medicine, geriatrics, cardiology, neurology, oncology, intensive care, anesthesia, family medicine; if the patient is a newborn, one of the above will be an expert in neonatology; if the patient is a minor, one of the above will be an expert in pediatrics and replacing one of the above will be a clinical or medical psychologist who specializes in children and youth;

(2) A physician who does not treat the patient directly, who is an expert in psychiatry;

(3) A registered nurse;

(4) A social worker or clinical psychologist;

(5) An academic who is an expert in the discipline of philosophy or ethics;

(6) A jurist who is qualified to be appointed as a district court judge, chosen from a list prepared by the Minister of Justice;

(7) A religious authority representing the religion of the patient, to the extent possible.

(b) A substitute person who has the qualifications required under this section shall be appointed for each committee member.

(c) An institutional committee will elect its chairman from among its members.

(d) An institutional committee will convene as close as possible to the time of its receiving the application, and at a time ensuring the relevance of its decision.

(e) An institutional committee is entitled to authorize a subgroup of its members to discuss urgent cases; the subgroup must include at least the following members:

(1) A physician with the qualifications specified in subsection (a)(1) or (2);

(2) One of the following committee members: a registered nurse, a social worker or a clinical psychologist;

(3) One of the following committee members: an academic as specified in subsection (a) (5); a jurist as specified in subsection (a) (6); or a religious authority as described in subsection (a)(7).

Application to the Committee

46. (a) An application to an institutional committee may be made by one of the following persons:

(1) A patient who has not been determined as being a terminally ill patient pursuant to section 8 or a patient determined as being a

terminally ill patient pursuant to the provisions of the aforementioned section (in this chapter – the patient), or a person on behalf of such a patient;

(2) The patient's representative;

(3) A close person or a guardian of an incompetent patient;

(4) A caregiver who is a member of the medical staff in the medical institution in which the patient is being treated;

(5) The patient's personal physician;

(6) A social worker.

(b) Where an application has been made to the institutional committee by a person who is not the patient or on his behalf, regarding the matters enumerated in section 47, the committee will give notice thereof to the patient or person on his behalf; if the patient is incompetent, the committee will also notify his representative and his guardian should there be such, as well notifying a close person, as the case may be.

The authorities and decisions of institutional committee

47. (a) An institutional committee is authorized to decide in cases in which there is dispute between the relevant persons or where a doubt arises regarding the nature of the treatment to be administered to the patient, and inter alia in the following cases:

(1) An objection to the decision of a responsible physician regarding the presumption of the wish to continue living pursuant to section 4 or the presumption of competence pursuant to section 6;

(2) A dispute between the parents of a minor, between themselves, or between themselves and the responsible physician, as well as a dispute between a minor who is a terminally ill patient and his parents or between himself and his caregivers, as stated in section 28;

(3) A dispute between a guardian and a minor patient, his parents, or the responsible physician, regarding section 24;

(4) Ascertaining the wish of a terminally ill patient based on advance medical directives that he gave as stated in section 35;

(5) An objection to the decision of a representative as stated in section 40;

(6) Establishing priorities between advance medical directives and a power of attorney as described in section 42(c).

(7) Determination of a responsible physician in the matter of whether a patient is a terminally ill patient or an end-stage patient as stated in section 8;

(8) Determination of a responsible physician to the effect that a person is a close person to the terminally ill patient;

(b) When deciding in a dispute as stated in section (a) an institutional committee shall ascertain the wish of a patient regarding his medical treatment and give directives regarding the fulfillment of his wish based on the facts presented to it and subject to the provisions of this Law; in the absence of facts regarding the wish

of the patient, in a discussion based on section (a)(1-6), the committee shall decide in accordance with the presumed wish of the patient, based on his world view and his way of life, and when necessary based on a consultation with a close person to the terminally ill patient and with people who represent a world view similar to that of the patient; in the matter of a minor or a protected person, the committee shall also decide based on section 28(d) or 29(d), as the case may be.

(c) The persons mentioned in section 46(a), as well as any person with an interest in the patient, are entitled to present their claims before the institutional committee.

(d) The decision of an institutional committee, other than in the framework of a discussion held by a subgroup as stated in section 45(e), will only be valid if at least five members participated in the discussion and in the adoption of the decision, among them the jurist, one physician and two additional members who are not physicians; the decisions of the committee will be based on majority opinion; if the opinions are balanced, the chairman's opinion will be the deciding opinion.

(e) An institutional committee is entitled to decide a case, to submit a case for the decision of the National Committee or to bring the parties involved to an agreement; if the parties agree – the committee will not decide in the matter.

(f) An institutional committee in a medical institution will discuss the matter of a patient being treated in the medical institution to which it is assigned, and the

matter of a patient who is not treated in that medical institution if the responsible physician for that patient is employed by the medical institution; an institutional committee of a sick fund will discuss the matter of a patient who is treated by a responsible physician who is not a physician as specified in paragraph (1) of the definition of a responsible physician, who is a district physician or was appointed by him, and the committee will be the institutional committee of the sick fund in which the patient is registered; an institutional committee will also discuss the case of a patient regarding whom the Director General instructed it to discuss and decide concerning him.

Renewed discussion by the committee

48. Where an application pursuant to section 46 was forwarded to the committee for a second time regarding a matter pertaining to a terminally ill patient, such matter already having been discussed and decided by the committee, and where there has been no change in the circumstances of the case, the chairman is entitled to determine that the application will not be forwarded to the committee for renewed discussion.

Exception to renewed discussion

49. The committee will not discuss an application in respect of which an appeal has been filed pursuant to section 51(a)(4), or a petition filed to the High Court of Justice.

Article B: The National Committee

Appointment of a national committee and its panels

50. (a) The Director General will appoint the National Committee and these will be its members:

(1) Four medical experts, at the level of unit director, department director or hospital director;

(2) Four senior level registered nurses, at a senior level;
(3) Four members who are social workers in a medical institution, at a senior management level, or clinical psychologists in a medical institution, at a senior management level;
(4) Four academics who are experts in the discipline of philosophy or ethics, at a senior academic level;
(5) Four jurists who are qualified to be appointed as district court judges or that are at a senior academic level;
(6) Four religious authorities.

(b) The appointed members should be experienced in the areas discussed by this Law; a Jewish religious authority will be appointed after consultation with Israel's Chief Rabbis and the non-Jewish religious authority will be appointed after consultation with the president of the appeal court of that religious community in Israel; the jurist will be appointed after consultation with the Attorney General.

(c) The Director General will appoint the chairman of the committee and his substitute from amongst its members.

(d) The chairman of the committee will appoint the panels of the committee from amongst its members; six members will be appointed to each panel, each from a different discipline as specified in paragraphs (1) to (6) of subsection (a), and he will also appoint a substitute for each one of them; the committee's chairman will appoint a chairman and his substitute for each panel.

(e) A member of the national committee will be appointed for a period of five years,

and his appointment may be renewed for additional periods.

Authorities of the national committee and application to the national committee

51. (a) The national committee is authorized to discuss and decide the following:

(1) Disputes between the members of the institutional committee, based on a request of at least one of them;

(2) Exceptional cases which are of fundamental importance, submitted by an institutional committee for its resolution;

(3) Cases that an institutional committee submitted to the national committee without deciding upon;

(4) An appeal regarding the decision of an institutional committee, submitted by a person entitled to apply to an institutional committee.

(b) When deciding on a dispute as stated in subsection (a) the National Committee will ascertain the patient's wish regarding his medical treatment and give directives regarding the fulfillment of his wish based on the facts presented to it and subject to the provisions of this Law; in the absence of factual data regarding the patient's wish, the Committee shall decide in accordance with the presumed wish of the patient, based on his world view and his way of life, and when necessary based on a consultation with a close person to the terminally ill patient and with people who represent a world view similar to that of the patient; in the matter of a minor or a protected person, the Committee shall also decide based on section 28(d) or 29(d), as the case may be.

The National Committee's decisions	52.	(a)	The persons enumerated in section 46(a) as well as any person who has an interest in the patient are entitled to present their claims before the National Committee.
		(b)	The decisions of the National Committee will be based on majority opinion; if the opinions are balanced, the chairman's opinion will be the deciding opinion.
		(c)	The decision of an institutional committee will only be valid if at least one representative from each discipline specified in subsections (1) to (6) of section 50(a) participated in the discussion.
		(d)	The National Committee will decide an appeal or an application that has been brought before it.
Appearance of the Attorney General	53.		If the Attorney General deems that a matter discussed by an institutional committee or by the National Committee raises a question requiring the presentation of his position, he may, at his own discretion, turn to the committee and appear before it in order to present his position in person or by a person on his behalf.

Chapter 7: Miscellaneous

Exemption from liability	54.	A person will not be liable under any law for actions performed in accordance with this Law, unless he acted negligently.
The right to additional actions	55.	A terminally ill patient is entitled, to the extent possible, to have his wish respected with regards to additional actions that in the opinion of the patient or his family are required, based on his own initiative and at his own expense; however, a director of a department is entitled to refuse allow the performance of such actions within the precincts of the medical institution if in his opinion such actions are liable to endanger the

patient or disturb other patients or the treating staff.

Transferring treatment to another healthcare provider

56. Nothing in the provisions of this Law shall obligate a caregiver to administer a particular medical treatment to the terminally ill patient, or to withhold a particular medical treatment where it conflicts with his values, conscience or medical discretion; a caregiver who refuses or withholds as stated will transfer the treatment to another caregiver, based on an arrangement determined in advance with the director of the medical institution.

Non-application

57. Notwithstanding the provisions of the Competence and Guardianship Law, 5722-1962,[7] the Youth (Care and Supervision) Law, 5720-1960,[8] the Persons Suffering from Mental Disorders (Treatment) Law, 5751-1991;[9] the Welfare (Treatment of Retarded Persons) Law, 5729-1969,[10] and the Safety of Protected Persons Law, 5725-1966,[11] and subject to the provisions of sections 5(c) and 14(c), the provisions of section 10(a), the provisions of sections 6 and 7 of Chapter 4 and the provisions of Chapter 6, a guardian appointed for a person will not be authorized to represent that person in matters to which this Law applies.

Confidentiality

58. A person will not disclose identifying information regarding a patient in the course of fulfilling his role or in the course of his work in accordance with this Law, and no use shall be made of such information other than for the purpose of executing the provisions of this

[7] S.H. 5762, p. 120.
[8] S.H. 5720, p. 52.
[9] S.H. 5751, p. 58.
[10] S.H. 5729, p. 132.
[11] S.H. 5726, p. 56.

Law, the provisions of any other law, or pursuant to a court order; the provisions of this Law do not derogate from the provisions of the Patients Rights Law, subject to the provisions of section 10(c).

Applicability 59. This Law shall also apply to the state.

Regulations 60. (a) The Minister, with the approval of the Work, Welfare and Health Parliamentary Committee, will determine –

(1) Provisions regarding the definition of a close person;

(2) Provisions regarding the giving, collection and documentation of statements, and regarding the collection of documents and data, for the purpose of ascertaining the wish of the patient pursuant to sections 5, 14, and 35, including evidentiary requirements regarding testimonies, documents and data as stated;

(3) The methods of appointment and working arrangements of the National committee and the institutional committees;

(4) The details to be documented in a medical record according to sections 7 and 11(b);

(5) Provisions regarding modification and cancellation of advance medical directives or power of attorney, by a person who by reason of an illness or defect is incapable of performing the required practical actions as stated in section 43(c);

(6) Reporting duties regarding the execution of the provisions of this Law to a person authorized by the Minister, for the purposes of supervision and research, and

provisions regarding publication of such information, provided that no identifying details are published regarding the person being reported on;

(7) Provisions regarding the duty to maintain in a medical institution and in any other location determined by the Minister as stated, technological means within their meaning in paragraph (2) of the definition of "Cyclical medical treatment"; These provisions can be implemented gradually with regards to different categories of medical institutions and in a place as a determined, and for a duration as determined, according to an order given by the Minister;

(8) Provisions regarding the management of the database, including conditions regarding disclosure and receipt of information, as well as the methods of appointment of the responsible person and the scope of his authority.

(b) The Minister will establish provisions as stated in subsection (7) (a), regarding any technological method, until the end of one year after the date on which the use of a technological method was approved by the Director General.

(c) The Minister, with the approval of the Labor, Welfare and Health Parliamentary Committee, is entitled to prescribe other methods for the giving of advance medical directives, as a general rule or for specific types of cases that he has determined as stated in section 33(c) and

for the granting of a power of attorney, as a general rule or for specific types of cases that he has determined as stated in section 38(c);

(d) The first regulations as stated in subsection (a) will be established until the end of one year after the publication date of this Law.

Implementation 61. The Minister is charged with implementing the provisions of this Law and is entitled to establish regulations for its implementation.

Changing Supplement 62. The Minister, with the approval of the Labor, Welfare and Health Parliamentary Committee, is entitled to amend the Supplements and to determine other types of forms as stated.

Application 63. This Law shall come into force one year after its publication date.

Source: **ASSIA – Jewish Medical Ethics**,

Vol. VI, No. 2, October 2008, pp. 13-29