GLOSS: *It is also* (D)*forbidden to hasten his death, for example,*

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of temperature, pulse and blood pressure should no longer be carried out nor should blood be drawn for laboratory tests. In such a situation, since the results of these actions will not change his treatment, they should not be done since they involve moving him. If, however, the patient is conscious, and will realize that these routine actions have been stopped, and the knowledge and its resultant despair and hopelessness may aggravate his condition, they may be done carefully. However all nursing care that is necessary for his physical and mental comfort, such as washing, cleaning him and changing the bed linen must be done. *Rav Neuwirth shlita* agreed with all this.

On the other hand, *Rav Auerbach zt"l* was asked whether it was permissible to move a *gosses* in the emergency room whose bed, or one of his limbs, was in such a position that it was impossible to move another *seriously ill* patient to where he could receive appropriate treatment (for example, to move him to the intensive care unit or to connect him to a respirator). The *Rav zt"l* answered: As to moving a *gosses* so that another's life may be saved, since there is a great need to try and save life, one may move the arm of a *gosses* carefully or his bed even though moving him would involve much effort. For since this will be done carefully and it is only a possibility that his death will be hastened, it is permitted. This is not like removing an instrument from his mouth or from his body for use in another patient, which is forbidden.[81]

The *Rav zt"l* explained to *Rav Neuwirth shlita* and myself that the ruling of the *Shulchan Aruch* refers to moving him for no reason or for the benefit of a *non-seriously ill* patient. But if, in order to save a *seriously ill* patient, the *gosses* must be moved, part of his body or his bed may be moved. He also told us that it would be permitted to stroke the hand of a *gosses* who was frightened so as to calm him. However, if the *gosses* is a child, his mother would not be permitted to take him into her arms in order to hug him although she does so to calm him. He added that the permission to move a *gosses* had nothing in common with the injection of a substance into the body of a *gosses* (even if he were to do it without touching him) to ascertain whether his brain was dead.

Rav Wosner shlita[82] was also asked the above question. He wrote: The *halachah* that it is forbidden to touch or move a *gosses* refers to touching his body, for example, closing his eyes or moving an arm that is hanging over the bed. In our situation, his body is not touched but his bed is moved ... It is obvious to me that *Chazal* ruled strictly (by Torah law) with regard to touching a *gosses* for fear of hastening his death. It is also well known that, in reality, even if one does move a *gosses*, he will not necessarily definitely die sooner ... Besides, the experts know that there are many uncertainties as to when the process of *gesisah* begins. In any case, in this situation there is only a remote chance that very carefully moving the bed in which the *gosses* lies will hasten his death, but by doing so it will be possible to save someone who can certainly be saved. In such an instance the Torah ruling would be that one ought to do so.

(D) forbidden to hasten his death. PROLONGING THE LIFE OF A *GOSSES* AND OF ONE WHO IS SUFFERING. EUTHANASIA. The *Minchat*

81. אסיא חוברת נ"ה טבת תשנ"ה עמ' 43

82. שם עמ' 44, שו"ת שבט הלוי ח"ט סי' רמה

83. מצוה לד

Chinuch[83] writes: Even if the prophet Elijah were to say that a person would live only for another hour or minute, nevertheless the Torah does not differentiate between killing a child who has many years to live and killing an aged person of one hundred. The killer is always guilty; even if the victim was marked to die in a minute, he is guilty for the minute of life that was still left to him. The *Gesher HaChaim*[84] explains that since there is neither a measure nor a boundary to the worth of a life, one cannot differentiate between a tiny fraction of life and a period one hundred million times greater. Therefore in Torah law there is no difference between killing a young healthy individual and killing a *gosses* who is one hundred years old. *Rav Jakobovits zt"l*[85] writes: The worth of a person's life is immeasurable and therefore cannot be divided; each and every fraction of it is infinite. Therefore, seventy years of life have exactly the same value as thirty years or a year, an hour or even a second. This exacting definition of the sanctity of the life of a person is not only based on pure mathematics or logic, but is based, to no lesser extent, on moral values. If the value of a human life is lessened because his end is near, the life of man will lose all of its absolute value, being replaced by a relative one — relative to his life expectancy, the state of his health, his value to society, or any other arbitrary index. It will then be necessary to grade people, and no two people will ever have the same worth. Once we curtail the life of a dying patient because it is no longer of value, we are in fact curtailing the infinite worth of each and every individual's life, assigning them limited boundaries.[86]

Rav Jakobovits zt"l[87] continues: The sanctity of life therefore is such that under no circumstances will it be permissible to curtail life because of pain and suffering, even if by a second. Even if death's victory in a short time is absolutely obvious, the patient's life remains of infinite value and killing him is no less a crime than killing a perfectly healthy person.

Even if the patient is suffering and is in severe pain, we have no right to kill him or to bring about his death to put an end to his suffering. On the contrary his suffering is for his benefit, as the *Gemara*[88] and the *Rambam*[89] write: The (*final*) punishment of a *sotah* who has merits ... will be postponed so that she does not die immediately (*on drinking the bitter waters — author*). Instead, she wastes away, being afflicted with severe illnesses until she dies a year or two or three later depending on her merits, dying eventually with swelling of her abdomen and the falling (wasting) away of her limbs.

1. *RAV AUERBACH zt"l.* The *Rav zt"l* told me that one must differentiate between treatments that fulfill the natural needs of a patient or those which are routine and conventional on the one hand and those which are not routine. Thus, one may neither stop nor desist from giving a patient who, for instance, has widespread cancer in his body and is close to death, oxygen, food or nutritional fluids as needed, even if he is suffering and is in severe pain. If he is a diabetic, one may not stop his insulin so as to hasten his death. One may not stop a blood transfusion or any other medication, such as antibiotics, that are needed for his treatment. One must not desist from giving him any of the above, with the purpose of causing

84. ח"א פ"ב סע' ב הערה 3
85. הרפואה והיהדות עמ' 152
86. וראה בדעת זקנים מבעלי התוס' בראשית ט:ה, מובא בב"י יו"ד סי' קנז
87. הרפואה והיהדות שם
88. סוטה כ ע"א
89. הל' סוטה פ"ג ה"כ

his earlier death. On the other hand, there is no obligation to actively treat such a patient, when the treatment itself will cause him suffering over and above his present suffering, and when the treatment is unconventional, if there is no expectation of curing his underlying illness but merely of prolonging his life a little. This is certainly so if the patient does not wish to receive such treatment because of the severe pain and terrible suffering.

The *Rav zt''l* also told me that narcotics such as morphine may be given to a patient who is terminally ill when this is necessary to alleviate his pain, even if there is a possibility that this might hasten his death, provided that the morphine is given only in order to alleviate his pain and suffering and not with any ulterior motive of shortening his life. If each dose on its own will not certainly curtail his life, then although many repeated doses will do so, he should be treated. However a patient for whom even a single dose will cause respiratory arrest, may not receive a single dose, even if he is suffering agonizing pain, unless he will be artificially ventilated should he stop breathing.[90] See also the *Tzitz Eliezer*[91] and *Rav Nebenzahl shlita's* comment.[92]

I should point out in this context that expert advice must be sought, from a specialist in treating pain, at an early stage in the treatment of painful disease. The advice of a psychiatrist must also be sought for treating depression and other psychiatric conditions in these suffering patients.

Rav Auerbach zt''l writes:[93] Although it is obviously clear that the lives of those who are paralyzed are not really "lives" in our simplistic way of thinking, and the suffering of the patient and his family is great, nevertheless we are commanded and required to actively do what we can to prolong their lives. If he takes ill we are bound to hasten to save him and, if necessary, set aside Sabbath laws for him. For we have no yardstick by which to measure life, its value and importance, even in terms of Torah and *mitzvot*. We must set aside Sabbath laws even for an elderly patient smitten with a repulsive disease although he is deaf and dumb and a complete *shoteh*, and is incapable of performing any *mitzvah*. His life is merely a burden on, and causes great suffering for, the family, prevents them from studying Torah and keeping *mitzvot*, and, in addition to their great suffering, is a strain on their resources. In spite of all this, it is a *mitzvah* for even the great of Israel to try and do what they can to save him and set aside Sabbath laws if necessary. Moreover, even if the patient has such great suffering that the *Halachah* would permit one to pray that he die, as the *Ran* rules,[94] and this is also the opinion of some *poskim*,[95] nevertheless at the same time as one prays and asks *Hashem* that the patient die, he is obligated to do what he can to save him and set aside Sabbath laws on his behalf repeatedly . . . However, since the lives of those who are paralyzed are painful and bitter, and there are those who would prefer death, therefore in the case in question, where the success of surgery on the spine is not certain and may, in fact, leave the patient paralyzed all her life, there is no obligation to actively treat her by operation, particularly since, in her case, the success of the surgery is

90. וראה מנחת שלמה תנינא סי' פו אות ב
91. שו"ת, חי"ג סי' פז
92. אסיא חוברת כה, סיון תש"מ עמ' 39
93. מנחת שלמה ח"א סי' צא אות כד
94. נדרים מ ע"א
95. ערוה"ש יו"ד שלה סע' ג. שו"ת אג"מ חו"מ ח"ב סי' עג ס"ק א. וע"ע בשו"ת ציץ אליעזר ח"ה רמת רחל סי' הוח"ט סי' מז

See Siman 335M, p. 264 above (to pray that the patient shoud die).

itself doubtful.

The *Rav zt"l* told me that there is no obligation to do anything to a terminally ill patient that will cause him severe pain even if the patient is comatose and not evidently suffering. The *Rav zt"l* was of the opinion that a comatose patient who could not respond to pain should be considered as if he were in pain.

Many years ago I spoke to the *Rav zt"l* regarding a patient with a spreading muscle paralysis (ALS). This disease causes complete paralysis of all the muscles of the body, usually starting at the periphery of the body and spreading, over an unpredictable time, to involve the chest muscles, so that eventually the patient will die, unless he is artificially ventilated. In some cases, the disease is accompanied by extreme sensitivity of the skin and muscles of the body so that every slight touch causes severe pain. The patient is completely conscious, hears, understands and is aware of everything that is going on, but, as he cannot speak, his only means of communication is with an up-down or side-to-side movement of his eyes. Because of weakening of the chest muscles, he is prone to recurrent attacks of pneumonia. There is as yet no known treatment for the disease. I asked the *Rav zt"l* whether, when the time came that he needed to be artificially ventilated to keep him alive, there would be an obligation to do so. The *Rav zt"l* answered me that it would be permissible not to connect him to a respirator. I asked him whether when the patient was terminal, it would be permitted not to treat yet another attack of pneumonia with antibiotics, in view of his great suffering, both physical and mental. The *Rav zt"l* wrote to me that one would be required to treat him with oral antibiotics. As to intravenous antibiotics, if this involved additional pain as a result of multiple injections, the patient should be asked whether he would want to be treated. If he wished to reject treatment, one possibly should respect his wishes. In any case Sabbath laws should not be set aside for the purpose (see below *Rav Eliashiv shlita's* ruling).

The *Rav zt"l*[96] writes: There are many who have difficulty with the problem of treating a *gosses*. Some think that just as we set aside Sabbath laws (even) for *chayei sha'ah* (a short span of life), so we must force a *gosses* to receive treatment since he does not own himself to be able to concede even a moment of his life. However it would appear that if the patient is suffering great pain and torment, or even severe mental distress, although we must give him food and oxygen, even against his will, we may nevertheless desist from giving him medication that will cause him suffering, if this is his wish. If, however, the patient is Heaven-fearing and has not become deranged, it would be most desirable to explain to him that an hour of repentance in this world is better than all of the World to Come. This is what the *Gemara*[97] means when it says that it is a privilege to suffer for seven years rather than die quickly.

2. *RAV ELIASHIV shlita.* The Rav *shlita* rules that a doctor must do everything he can to prolong the life of a patient even if there is no treatment for his basic disease as long as the patient has not become a *gosses*. However if the patient is suffering greatly and asks that his life not be prolonged with such treatments, it is permitted to passively let him die. One must do everything for a patient who is comatose including a full resuscitation, even if he has been defined as brain dead, as long as it is not obvious that he is suffering,

96. מנחת שלמה סי' צא אות כד

97. סוטה כ ע"א

even if the treatment is only meant to prolong his life. As proof the *Rav shlita* quotes the *Mishnah Berurah*[98] who rules in the name of *rishonim* that if someone is found buried under rubble on *Shabbat*, even if his brain is crushed and he only has a short while to live, nevertheless, one rescues him so that he may live a little longer. (I have already noted in 339B above that *Rav Auerbach zt"l* wrote to me concerning this *Mishnah Berurah* that it could be that part of the brain was still functioning. *Rav Neuwirth shlita* told me that it could be that the part that was crushed was the skull and not necessarily the brain.)

Rav Eliashiv shlita was asked about a patient with ALS (see above) who asked not to be connected to a respirator. In a *responsum* (written in his name by Rav Yosef Ephrati *shlita*) the Rav *shlita* rules: A patient who is beyond cure, and all that medical science can offer him is a prolongation of *chayei sha'ah* at the cost of additional suffering due to the treatment itself, may refuse the treatment. If, however, the treatment is not accompanied by additional suffering, it is forbidden to listen to him. I also heard this personally from *Rav Eliashiv shlita*.

In a recent (August '01) conversation that I had with *Rav Eliashiv shlita* concerning a terminal patient, he ruled that since the patient was conscious and suffering, one was permitted to desist from intubating him or dialyzing him since these measures would only serve to prolong his *chayei sha'ah*. However the patient, who himself was a great sage, should be given the choice to decide what he wished his doctors to do. I asked him whether this ruling would change if the patient lost consciousness and he answered: No, there would be nothing to gain by any further treatment such as artificial ventilation or dialysis.

3. *RAV WALDENBERG shlita.* The Rav *shlita* writes[99] that as long as the patient has any spontaneous life even though he is a *gosses*, the majority of whom will certainly die, he is nevertheless given blood, antibiotics, oxygen and intravenous nourishment, just in case he will be revived, since a minority may live. Even if this will only prolong his independent life, this must be done. It is forbidden to stop any of the above and the doctor is obligated to continue to treat him with whatever treatment is necessary to prolong his independent life except at the time when his soul leaves his body.

4. *RAV MOSHE FEINSTEIN zt"l.* The Rav *zt"l* writes:[100] It is certainly forbidden to do anything to prolong the *chayei sha'ah* of a patient when this is accompanied by suffering. In another *responsum*,[101] the Rav *zt"l* writes: If the doctors have no further means to cure the patient or even to lessen his suffering, but only to prolong, by a little, his life of suffering, they should not give such a treatment ... There are wicked people who say that a patient who is a *shoteh*, or was comatose because of injury and is lacking "quality of life" should not be treated. This is not so. There is an obligation to treat someone who is so mentally affected that some insensitive people call him a "vegetable," and say that he need not be treated if he becomes ill without suffering and can be cured to continue to live a long life. However it should be obvious and clear that if he were to become physically ill, one is obligated to do everything necessary to save him, regardless of his wisdom or intelligence.

98. סי' שכט סע' ד ביה"ל ד"ה אלא

99. שו"ת ציץ אליעזר חי"ד סי' פ וראה גם שם סי' פא. וראה גם בחי"ג סי' פט אות יא

100. אג"מ יו"ד ח"ב סי' קעד ענף ג

101. אג"מ חו"מ ח"ב סי' עד אות א

The Rav *zt"l* also discusses a patient whose basic illness is uncurable but medication can be given to prolong his life with its suffering, even for many years but not for a normal lifespan. He writes:[102] If he now becomes *seriously ill* with a second disease, which does not cause additional suffering, he must be treated for it, even against his will, although he will still be left with the original disease and its suffering. However if the (second) illness causes additional suffering and neither it nor its suffering can be treated, so that people would prefer death rather than living a life of such suffering, it would appear that there is no obligation to treat him, if he does not wish such treatment which will merely prolong a life of suffering. And even if the patient's wishes are unknown, one may assume that he would not want it and there would not be an obligation to treat. The Rav *zt"l* also writes:[103] A *seriously ill* patient whom the doctors think will live only seven days or less, who becomes ill with another life-threatening illness, such as pneumonia, must be treated as necessary, even though there is no cure for the underlying disease.

In yet another *responsum*,[104] the Rav *zt"l* was asked whether there is an obligation to treat a patient with incurable cancer who would then only live a life of suffering for a few months. The Rav *zt"l* replies that if there was no alternative treatment, the patient should be told this and asked if he wishes to have the treatment. For if he prefers to live with suffering rather than die, he must be given the treatment, but if he does not wish to live with suffering the treatment must not be given, unless this is done to gain time so as to give the doctors an opportunity to bring in specialists.

5. SUMMARIZING THE ABOVE (where differences of opinion exist *Rav Auerbach zt"l*'s opinion is quoted):

(1) Every patient must be fed and given fluids, oxygen and anything else, such as blood and insulin, as necessary, since these are intrinsic and natural requirements of every human being. If these can only be given artificially, for example, oxygen by mask or nasal cannula, food by *naso-gastric tube* or even *gastrostomy*, fluids intravenously, this must be done. Antibiotics and all routine treatments must be given as necessary. *Rav Auerbach zt"l* told me that if the patient was a *gosses* and would die from his disease before he would die from lack of the above, if he rigorously refused to have them given, one could desist from doing so. However treatment, once started, cannot be discontinued, if doing so will hasten his death.

(2) A patient with a chronic, incapacitating but non-terminal disease should be treated as any other patient, including the administration of full resuscitation if necessary even if only for *chayei sha'ah*. Thus the very aged and senile, someone with advanced *Alzheimer's disease* or a *shoteh* must all be treated like any young robust and healthy individual.

(3) A terminally ill patient should receive all that is enumerated in the first section of the summary. However if he requires extraordinary treatments — for example surgery, intubation and cardiac massage — for complications of his underlying disease, which will only prolong his *chayei sha'ah* but at the cost of additional pain and suffering to what he already has, one may desist from such treatments.

(4) A DNR (Do not resuscitate) decision can be made only if **all** the following three conditions have been met: (a) the patient is terminally ill with a non-treatable disease; (b) he is suffering greatly, physically

102. שם אות ב
103. שם סי' עה אות ד
104. שם אות א

or mentally; and (c) any further treatment will only prolong his *chayei sha'ah* and add to his suffering.

(5) The suffering of the family must never ever be a part of the decision making process.

(6) All nursing care necessary for his comfort must be given.

Remember! The decision "Do not resuscitate (DNR)" does not mean "Do not treat."

No decision to withhold treatment of any kind should be made without consultation with a *posek* who must be made aware, in detail, of the patient's condition and of the pros and cons of the treatment concerned.

Finally, in all situations, the patient must be given much TLC — Tender, Loving Care.

CONCLUSION. In conclusion, I cannot emphasize strongly enough that these are life and death decisions that can be made only by a *posek* who must be made fully aware of the medical facts as decided by a full team of medical experts. Although allowing a patient to die is not the same as actively killing him, it is nevertheless a very serious sin. Unlike the world at large that is more and more coming to believe that there is no difference between withholding and stopping nourishment, oxygen and treatment in a terminal — and even not so terminal — patient, and that both are permissible, *Halachah* clearly differentiates between the two. Stopping is never permissible and withholding may be, but only in very particular circumstances, and then only with the express ruling of a recognized and medically informed *posek*. No two patients and no two circumstances are exactly alike and only a *posek* can decide when one may allow a patient to die and when one must continue to fight even for a few more moments of life, even if only artificially maintained. As physicians, we should approach these very difficult problems of life and death with humility and realize our fallibility and lack of absolute knowledge. We must accept completely the tenets of our Torah as expounded by our Sages, with the readiness to listen to, and put into practice, what they tell us. We must be willing to control our emotions, including those of pity and compassion, within the boundaries set by the Torah. We, who hold life and death in our hands, must therefore continually remind ourselves that the Almighty only gave us permission to treat.

See also *Nishmat Avraham*, vol. 1 *Orach Chaim*, Siman 330Q and *Assia*, "Jewish Medical Ethics," vol.1 p. 38, May '89.

6. LIVING WILL. It is quite commonplace in Western society for people to sign, or be asked to sign, a living will. The purpose of such a will is to let those treating the patient know what he wishes them to do or not do for him in the event of illness, if he is unconscious or unable to communicate with them because of the loss of his mental faculties, such as occurs in advanced *Alzheimer's disease*. These wills may allow even detailed advanced directives, for example, being given food and fluids by artificial means, dialysis, intubation, resuscitation. They may include directives as to when the doctors should desist from or stop anything that will prolong his life. He may also appoint a member of his family, a friend or his lawyer to act on his behalf. He may also be asked to donate his organs for medical research or for transplantation.

However, *Halachah* lays down quite clearly that one does not have any jurisdiction over or ownership of, one's body, be it in life or after death.[105] Therefore

105. רמב"ם הל' חובל ומזיק פ"ה ה"א והל' רוצח פ"א ה"ד. רדב"ז על הרמב"ם הל' סנה' פי"ח ה"ו. שו"ע הרב הל' נזקי גוף ונפש סע' ד. שו"ת אג"מ יו"ד ח"ג סי' קמ. וכך שמעתי מהגרש"ז אויערבאך זצ"ל

when the period of dying is long drawn out, (E)it is forbidden to remove the pillow or cushion from under him because it is said that the feathers of certain fowl cause a prolongation of dying. Similarly, he should not be moved from where he is lying. How-

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one does not have the power to decide what may or may not be done to him when he is ill, certainly in decisions of life and death, and certainly not with regard to whether his life should be prolonged or curtailed, even if this is only done passively (that is by desisting from feeding or treating, for example). Neither may one donate any of his organs after death (however defined) without prior consultation with a recognized Orthodox *posek* whose views are those of *gedolei Yisrael*.[106] Therefore, if one does wish to write such a will, it must contain only the statement that:

> In the event of my being unable to participate in decisions of life and death concerning myself, I appoint Rabbi ... who will make all such decisions for me and who must be consulted at each step of my illness and for each separate decision, and his decision will be binding on all my caregivers as if they were mine. If Rabbi ... is not available, Rabbi ... should be consulted in his absence.

The Rabbis chosen must be recognized as those whose *halachic* outlook and decisions are based on those of *gedolei Yisrael* and who will consult with them in these difficult decisions. They must be consulted at the time that the will is prepared.

(E) it is forbidden to remove the pillow or cushion from under him. The *Aruch HaShulchan*[107] explains that the *Shulchan Aruch* first tells us that it is forbidden to do anything that will hasten the patient's death, for example, removing the pillow from under his head. Even if one thinks that it is a *mitzvah* to hasten his death for his benefit, for instance, if he is a *gosses* for a long time and is obviously suffering greatly, nevertheless it is forbidden to do so, for this is *Hashem*'s Will. Moreover, not only is it forbidden to pull the pillow away from under his head, thus moving his head a substantial distance, but even to move him a little is forbidden. And, even if one does not move him at all but does something that will hasten his death, this is also forbidden. Any of these will lead to an earlier death even if it is not done to him directly. On the other hand, if something prevents his soul from leaving his body, it may be removed, for since the impediment is external and not intrinsic to the patient, why should he suffer?

The *Gemara*[108] tells of the elderly inhabitants of the town of Luz (where no one ever died) who, when they tired of living, walked outside the walls of the town and died. This is not considered like committing suicide, or doing something that is suicidal, for their action only led, indirectly, to death by "natural causes." See also the *Gemara*[109] that tells us of the martyrdom of the *Tanna*, Rebbi Chanina ben Teradyon. The *Yalkut Shimoni*[110]

106. שמעתי מהגרש"ז אויערבאך זצ"ל. וראה גם בשו"ת אג"מ יו"ד ח"א סי' קכט ענף ה ויו"ד ח"ג סי' קמ

107. סע' ד

108. סוטה מו ע"ב. אך עיין בבראשית רבה פ' ויצא סו"פ סט שהגירסא שם היא "מוציאים אותם"

109. ע"ז יח ע"א. וראה בשו"ת אג"מ יו"ד ח"ב סי' קעד ענף ג (עמ' רצ), וחו"מ ח"ב סי' עג (עמ' שה) וסי' עד (עמ' שיב). חי' בית הלוי על הרמב"ם הל' רוצח פ"ב ה"ז ו-ח. שו"ת תורת חסד אהע"ז סי' מב ס"ק ה. שו"ת ציץ אליעזר ח"ט סי' יז פ"ו ופ"י ס"ק ה

110. פ' עקב סי' תתעא ומשלי סי' תתקמג