

MEDICAL ETHICS AND TORAH MORALITY:

A Rejoinder

Yoreh Deah 336:1 — The Torah gave permission to the physician to heal and it is a *mitzvah* under the general rule of saving a life. And if he (the physician) refrains, he is (guilty) of shedding blood.

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Medical practice, as every other human endeavor, needs moral and ethical guidelines. Indeed, modern medical practice faces special ethical problems because scientific developments have introduced drugs and procedures of unprecedented capacity for curing disease and yet with potential hazards.¹ Physicians agree that their ability to influence human existence is greater than ever before and that the requirements of sophisticated clinical investigation as well as the introduction of new modes of therapy have raised many questions of moral, social and legal importance. Humanistic and religious principles, by their nature, develop slowly; in recent decades they have been unable to keep abreast, much less anticipate, developments in medical science. Since human life and dignity are often the issues at stake, we are anxious to see these matters approached objectively, realistically and soon.

The preceding article raises a variety of issues concerning the ethical values of physicians and their right to implement dramatic changes in medical practice. Most thoughtful members of society, however, would not agree that the physician who introduces new therapy is motivated by a desire to usurp the role of God or of society as a whole. Yet recent developments in medicine have been presented as an attack on a society founded on democratic principles, a challenge to our fundamental constitutional rights and have resulted in arbitrarily condemning thousands of patients to death. I believe that these charges are unfounded.

Although physicians bear the unique responsibility for the introduction of new techniques, they must share with society in

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general, and its religious leaders in particular, the development of ethical standards and the application of moral principles to modern problems. Unfortunately, the preceding article does not come to grips with the tenets of medical ethics or Torah morality. Definitive and normative Torah morality is expressed in the Halakhah. Halakhic decisions come about in response to the questions and challenges of new situations and are based on Biblical, Talmudic and later Rabbinic sources. It seems clear, that if asked, Dr. Tandler would have refused Dr. Barnard the right to proceed with cardiac transplantation. It is not yet clear, however, that such a decision would have been correct nor that such will be the Halakhic decision of the future.

The codifier of the Shulchan Arukh emphasizes that the physician's permission to heal is a *mitzvah* — a positive precept — which he may not ignore; here, and in later commentaries, it remains the physician's primary responsibility to assess the medical facts concerning the threat of disease to the patient's health and life against the risks of therapy. In the many issues which have been raised — chloramphenicol therapy, the relative merits of dialysis versus kidney transplantation and the use of heart transplants — there are many differences of opinion among medical experts and the issues are not yet scientifically decided. To select a few critical opinions is unfairly judging an issue which ultimately must be based on scientific rather than moral judgment. In the absence of clear scientific data or evidence of ethical impropriety, no useful purpose is served by comparing the achievements of Dr. Christian Barnard to "some of the Nazi experiments on humans." This is hardly the path to a definition of Torah morality in a complex issue.

Physicians are accused of playing God for acting in their capacity to dramatically affect the lives of their patients and for having accepted the responsibility for decisions such as organ transplantation between human beings. Does this usurp the role of God whom we daily bless for having "created man in wisdom" and who "heals all flesh and performs wonders?" I believe not: Halakhic authorities have clearly delegated to the doctor the obligation of healing. The scientific and moral problems which have been raised by transplantation include the need for

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a more precise scientific and legal definition of death, new understanding of the moral and legal interpretation of informed consent as well as a realistic discussion concerning the optimal use of our medical and financial resources. These topics have not been ignored by responsible medical leaders but have been the topic of many symposia², editorials³ and stag meetings⁴ at hospitals applying modern medical methods. Physicians welcome to these discussions the contributions of responsible religious authorities and thoughtful moral persons from all walks of life. We believe that the scientific advances of the last decade have outreached the moral guidelines which were adequate for previous generations and agree that these must be redefined in the light of new responsibilities.

A broader charge is brought that our society has defaulted by delegating to physicians leadership in areas of moral concern. As an example of society's abrogation of responsibility, Dr. Tendler brings the example of hemodialysis — an apparatus which is able to assume much of the function of the human kidney. He contrasts the total cost of medical care of patients requiring hemodialysis with that of one day's warfare in Vietnam or with the national expenditure on cosmetics. It is absurd to charge that physicians have made this choice. The medical community has never sought to deprive society of its proper medical care, but rather continually seeks through public appeal and through congressional hearings an increased expenditure in these areas of public interest.

Notwithstanding these charges, the medical community — the practicing physician, the clinical investigator and the university professor — is deeply involved with the ethical and moral issues involved in medical progress. In addition to the problems posed, the socially and ethically conscious physician daily must apportion his time and society's resources between the needs of individual patients — those treated easily and those incurably afflicted, those whose disease commits them to a life of infirmity and those whose death must be eased with drugs and with dignity. He must institute treatment where scientific data are not conclusive but where the patient's illness demands immediate response. In addition, the physician must counsel and reassure

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the families of all these patients. These indeed are moral issues which are being decided by the physician who would gladly share his responsibility with society, where possible. Such issues are not clarified, however, by posing unreal situations with biased phrases such as "rich industrialist, "poor employee", "twenty-one year-old acid head" and "seventy-year-old teacher of truth and beauty." It is my belief that the religious training, the broad humanistic experience and the erudition of physicians as a whole is not inferior to that of the average layman and may indeed give them special competence in facing these enigmas. The physician must make decisions which cannot be postponed until such time as society and its moral leaders present clear moral guidelines.

Finally, the attacks on Dr. Christian Barnard are based upon unfair insinuations deserving rebuttal. However, the dramatic success of Dr. Barnard's surgery, in contrast with the early failures in this country, clearly answers the requirements that a) the team is highly skilled, b) the work was carefully planned, and c) the institution was well equipped. Further, the pages of this journal are an inappropriate forum to discuss the use or omission of antilymphocytic gamma globulin and immuno-suppressive therapy. It is important to realize that moral judgment cannot be made in the absence of accurate scientific information. Dr. Barnard has apparently weighed the scientific information very well; the survival and dramatic improvement in the life of his last patient so testifies.

Nor has society's right to know been ignored by Dr. Barnard. An entire issue of a medical journal⁵ was devoted to a careful and detailed discussion of the surgery, the preparations for it and all the scientific details of medical and surgical care. Further, several of the articles in this journal particularly discussed the ethical and moral points which they faced along with a forthright statement of their own convictions.

Dr. Tendler requires physicians to state whether they are instituting treatment or performing an experiment. This question presents a false choice. In even the most trivial use of standard drugs, the doctor's treatment is an experiment on the patient in which he knows the odds of success are likely to be good. In the

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evaluation of new forms of treatment, each use of a drug or a procedure has the odds less well defined. In the first instance of human use of a drug or a surgical procedure, the treatment is even more of an experiment. With the heart transplant patients treated by Dr. Barnard, the therapy appears to be a successful experiment.

Torah morality does not provide guidelines for the use of chloramphenicol or hemodialysis. It is the physician's inescapable moral obligation to determine the scientific data on which to base the decision to use a drug or procedure. I believe that this is the Torah's directive *V'rapoh Yerapeh*, "and the physician shall heal." There is, however, a large area where the Torah has much to tell us about the rights of the living and their obligations to each other. Physicians and lawyers are seeking a clearer understanding of life and of clinical death; the Halakhah should have much to offer in elucidating the point in time which separates life from death.

The charge that physicians play God seems grossly unfounded. Many ethically sensitive physicians, however, fear a more serious perversion of moral and religious life. That is the fear that man's life will become wholly a concern of physical measures and death shall be redefined as the point at which transplantation ceases to be effective. Society with its physicians, teachers and moral leaders must keep alive the spiritual values which make man's life meaningful and the awareness that the soul of man comes from God.

The morning blessing for daily Torah study is introduced by blessing God, "who created man's body." It ends with an expression of gratitude to God for infusing in that body a holy spirit and the blessing "who restores to dead bodies their souls."

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