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**Aging and the aged in Jewish law**

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AN ELDERLY PATIENT WHO REFUSES DIALYSIS

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## AN ELDERLY PATIENT WHO REFUSES DIALYSIS

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**QUESTION:** An intelligent, articulate, eighty-three-year-old widow has renal disease which can be treated by kidney dialysis. She was diagnosed eight years ago and refused dialysis. Since then her health has generally deteriorated, with a hip fracture, incontinence, and heart disease. She has now entered a nursing home and suffers from end-stage renal disease as well as congestive heart failure. She has made it clear to her brother as well as those at the nursing home that she wishes no drastic treatments (CPR, mechanical ventilation, feeding tubes, etc.) but wants to die *peacefully and without pain*. One of the attending physicians feels a strong obligation to save this patient's life. He argues that he cannot let her die of renal kidney disease and wants to impose dialysis upon her. Should she be forced to undergo dialysis? What are her rights and obligations and what are those of the physician in this case. (Rabbi Dayle Friedman, Philadelphia PA)

**ANSWER:** A good deal has been written about the obligations of a physician to heal. Our tradition from Talmudic times onward has encouraged the use of every possible medical procedure in order to save lives. The discussions were based on "He shall cause him to be thoroughly healed" (Exod. 21:20) and "You shall not stand idly by the blood of your fellow" (Lev. 19:16). Even risky procedures may be undertaken if the physician thinks that there is a reasonable hope for recovery (San 73a; A. Z. 27b; J. Reischer *Shevat Yaakov* III #85; Eliezer Waldenberg, *Tzitz Eliezer* 10 #25 Chap. 5, Sec. 5; Moshe Feinstein, *Igrot Mosheh Yoreh Deah* 2 #59; I. Y. Unterman *Noam* 12. p. 5; W. Jacob (ed), *American Reform Responsa*, #75, 76, 77, 79; W. Jacob, *Contemporary American Reform Responsa*, #77, 85). We have gone somewhat further and permitted a patient who understands the risks to be part of a dangerous medical ex-

periment in which the chances of recovery are slim (W. Jacob, *Contemporary American Reform Responsa*, #17).

Patients have always been encouraged to use physicians and to follow the Biblical dictum "Heal yourself." Physicians have been held in high regard from early times onward (*Ben Sirah* 38.1; *Tobit* 2.10, *Midrash Rabbah* Exod. 21:7; see also I. Jakobovits, *Jewish Medical Ethics*, pp. 201 ff). On the other hand, skepticism about physicians has also played its role in Jewish life; the *Mishnah* quotes R. Judah: "The best among physicians is destined for hell" (*M. Kid* 4.14). All of these sources establish the physician's duty to heal as well as the patient's obligation to maintain good health and to do whatever is considered reasonable to regain health.

It has been established that nothing positive may be done to hasten death even in a terminal patient, yet there is also no obligation to intervene in a hopeless situation to minimally prolong life (S. B. Freehof, *Modern Reform Responsa*, #34 and #35). In most instances in which this has been discussed the terminal patient is no longer capable of making rational decisions and must rely completely on those who are providing treatment. In this instance we are dealing with an individual who has made her wishes known.

We may understand the role which the patient and the physician play in their interrelationship by looking at the frequently discussed theme of treatment for illness overriding various religious obligations. It has long been permitted to violate the Sabbath laws not only in order to save a life but even for someone who is dying (*Yoma* 84b; I. Lampronti, *Pahad Yitzhak Holeh Beshabbat*, etc). The general principle is that if either the physician or the patient

believes that a treatment is required and there is some risk to life then the normal religious legislation is suspended (*Shulhan Arakh Orah Hayim* 328.5 and commentaries). The decision favored the patient who considered a treatment necessary even if a hundred doctors considered it not sufficiently urgent to override religious obligations, "because a heart knows its own bitterness." This and other discussions indicate that the patient is heavily involved in the treatments and not merely a quiet and subservient recipient.

In the instance of our patients, proper persuasion might have brought the widow to dialysis eight years ago. The fact that she lived eight years without dialysis at this advanced age may indicate that she chose the appropriate path for herself. Now as she is suffering from end stage renal disease as well as congestive heart failure, it is not a question of saving her life, but possibly prolonging it at the expense of her dignity and with some pain both physical and psychological.

This patient rejected dialysis while living independently at home and should not have dialysis imposed upon her now that she is dependent upon the services of a nursing home. Her attitude has led to a full, long life. Additional medical attention which she does not wish should not be forced on her; it is only likely to shorten her life. The physician has done his duty by suggesting the treatment. The patient who knows that she is close to the end of her life with or without the treatment is not obligated to accept the suggestion.

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Walter Jacob, *New American Reform Responsa: Questions and Reform Jewish Answers*, #157 (Central Conference of American Rabbis, New York, 1992).

