As explained above, the Jewish tradition assumes that God controls who lives or dies and who is healthy or sick, but God also commands us both to take preventive measures to ward off illness and to seek to cure illness when it occurs. These commands are part of our general obligation to protect our bodies that remain God’s property throughout our lives and even in death.

When applied to modern issues in genetics, these principles require us to balance that which is a permitted human intervention in the process of curing illness or enhancing life against that which is an interdicted human attempt to play God. As our ability to genetically alter people’s lives increases, that balance is becoming harder and harder to strike.

GENETIC RESEARCH

Because Ashkenazic Jews (those whose ancestors lived in Eastern Europe) constituted a relatively small, inbred population, and because Jews greatly respect medical research and therefore volunteer to participate in studies, there are a number of genetic diseases known to be more prevalent among Ashkenazic Jews than the general population. This in and of itself has caused a problem, for Jews worry that they will be identified as an especially sick population simply because scientists know more about the diseases to which they are prone. Such an identification could lead to discrimination in health insurance and employment.

Despite these dangers, Jews, in line with the great value that their tradition places on research and cure, may and do readily participate in genetic research. We certainly want to help in the effort to find ways to cure genetic diseases through new techniques of genetic engineering. At the same time, the Holocaust makes Jews very wary of the possibility that those very same techniques will be used to create a master race, however that is defined. Thus we as a society must simultaneously work to acquire the genetic engineering tools to cure diseases while finding ways to ensure that this new technology will be used only for cure and not for eugenics.

CLINICAL ISSUES

Genetic screening and counseling
Descendants of the Jews of Eastern Europe have ten times the chance of inheriting Tay-Sachs disease that members of the general population have, even though only 3 percent of Jews of Eastern European origin are carriers. Since genetic screening for Tay-Sachs became available, repeated educational sessions and notices in public media have reminded young Jews to have genetic screening for the disease. There is a concerted call for Jewish couples, in particular, to undergo genetic testing for Tay-Sachs before marriage to determine whether either or both are carriers. The disease is lethal within the first few years of life, and at present the only remedy for a fetus with Tay-Sachs is abortion. According to the vast majority of rabbis of all denominations, abortion of a fetus with a genetic disease like Tay-Sachs is warranted. As a result, couples who are both carriers may choose to test each fetus for the disease and abort those affected. Moreover, couples who are both carriers may act prophylactically by using in vitro fertilization, selecting to implant only those embryos that will not suffer from the disease.

A few rabbis in the Orthodox community object to genetic testing for Tay-Sachs because they object to abortion on any grounds not directly relevant to the life or health of the mother. They also define her “mental health” more narrowly than do most rabbis, even most Orthodox ones. Presumably, when it becomes possible to cure such diseases in utero, even such rabbis would permit genetic screening, for then the test would not potentially—or, at least, would not nec-
essarily—be a motivation for abortion.

While abortion of such fetuses is permitted, no active measures may be taken to hasten death once the child is born, and both child and parents must wait out the ravages of the disease.

Jews with a family history of any other less common but fatal genetic disease should be tested for it as well. Where there is concern regarding non-lethal genetic diseases, genetic screening may be done, and a decision may then be made whether to abort the child. So, for example, familial dysautonomia or Riley-Day Syndrome is very debilitating and is fatal before age 30 in approximately half of all cases. Since familial dysautonomia afflicts Ashkenazic Jews at the same rate as Tay-Sachs, and since a genetic test for the disease has just recently been created, Ashkenazic Jewish couples should be alerted to test for it, just as they do for Tay-Sachs. If the fetus will suffer from Downs Syndrome, some couples may choose to abort it on the grounds that the couple—officially, the mother—cannot stand the thought of bearing such a child, let alone rearing it, while others may choose to bear and raise the child. It is a borderline case of maternal mental health for it presents the challenge of raising a child lovingly and effectively despite disabilities. In addition, Ashkenazic Jews are largely unaware that they are even more prone to Gaucher’s Disease than to familial dysautonomia. Gaucher’s, however, is not fatal, and so testing for it is not nearly as critical.

**Sex selection**

When we analyze amniotic fluid for the presence of diseases, we learn many other things about the child, including gender, eye color, and so forth. It is not permissible, according to all interpreters of Jewish law, to abort a child just because parents want a child of the opposite gender. On the other hand, since the Jewish mandate to procreate requires producing minimally a child of each gender, if a family has children of only one gender, some authorities would allow choosing an embryo in in vitro fertilization that will produce a child of the opposite gender.

**Selective reduction**

When a woman is impregnated with three or more fetuses, either naturally or artificially, an abortion is medically indicated in order to preserve both the life of the mother and the viability and health of the remaining fetuses. Therefore such abortions are permitted and possibly even required. When it can be determined through genetic testing that some of the fetuses have a greater chance to survive and to be healthy than others, then it is permissible to abort those less likely to survive. This is the same criterion to be used for triage decisions made at the end of life. If all of the fetuses are equally viable, the abortions must be done on a random basis.

**Gene therapy**

While gene therapy is relatively new and is available only in limited areas, some principles have already emerged in Jewish discussions of this topic. Techniques of genetic therapy, for example, can cure such conditions as hydrocephalus while the fetus is still within the womb of its mother. Further research holds out the hope that other diseases will also be amenable to procedures within the womb as well. When used in this therapeutic way, genetic engineering is an unmitigated blessing.

The same techniques may be used, however, to screen out traits that are deemed merely undesirable by certain individuals or groups. How do we determine when we are using genetics appropriately to aid God in ongoing, divine acts of cure and creation, and when, on the other hand, we are usurping the proper prerogatives of God to determine the nature of creation? When do we cease to act as the servants of God and pretend instead to be God?

Our moral perplexity about genetic engineering does not mean that research into it should
stop since the potential benefits to our life and health are enormous. It does mean, however, that we must take care in deciding how we use our new capabilities. The problem is not medical; it is moral.

ORGAN AND TISSUE TRANSPLANTATION

GENERAL PRINCIPLES

When considering the transplantation of an organ from a dead person, the overriding principles of honoring the dead (kavod ha-met) and saving people’s lives (pikkuah nefesh) work in tandem. That is, saving a person’s life is so sacred a value in Judaism that if a person’s organ can be used to save someone else’s life, it is actually an honor to the deceased person. That is certainly the case if the person completed an advance directive, either orally or in writing, indicating willingness to have portions of her body transplanted; but even if not, the default assumption is that a person would be honored to help another live.

In the case of living donors, the command to save lives (pikkuah nefesh) requires all Jews who can donate blood with virtually no risk to themselves to do so on a regular basis. Donating blood is especially imperative now that new surgical procedures have increased the need for blood, thereby reducing blood supplies nationwide and forcing some surgeries to be postponed or canceled. When the risk to the donor is greater, as in donating bone marrow and organs, Jews may undertake the risk to help others but are not required to do so because our duty to preserve our own life and health supersedes our duty to help others.

CLINICAL ISSUES

Living donors
Since every organ donation from a living person involves surgery and therefore at least some risk, and since preserving one’s own life takes precedence over helping someone else live, contemporary rabbis have generally permitted, but not required, such donations when the donation can be accomplished without a major risk to the life or health of the donor. Rabbi Immanuel Jakobovits, former Chief Rabbi of the British Commonwealth and author of the first comprehensive book on Jewish medical ethics, is typical. He ruled that a donor may endanger his or her life or health to supply a “spare” organ to a recipient whose life would thereby be saved as long as the probability of saving the recipient’s life is substantially greater than the risk to the donor’s life or health. “Since the mortality risk to kidney donors is estimated to be only 0.24 percent and no greater than is involved in any amputation, the generally prevailing view is to permit such donations as acts of supreme charity but not as an obligation.”

Cadaveric donors
Although the default assumption is that a person would be honored to help another live, there are some restrictions. Rabbis have differed on the circumstances under which organs may be transplanted. The most restrictive opinion would limit donations to cases in which there is a specific patient before us (lefaneinu) for whom life or an entire physical faculty is at stake. So, for example, if the person can see out of one eye, a cornea may not be removed from a dead person, according to this opinion, to restore vision in the other eye. Only if both eyes are failing, such that the potential recipient would lose all vision and therefore incur increased danger to life and limb, may a transplant be performed. Moreover, the patient for whom the organ is intended must be known and present; donation to organ banks is not permitted.
That view is definitely an extreme position. Most rabbis, including Orthodox ones, would expand both the eligibility of potential recipients and the causes for which an organ may be taken. For reasons I shall delineate in the next section, all authorities would insist that the family agree to use their loved one’s body for this purpose. Assuming such agreement, most rabbis would permit the transplantation of a cornea into a person with vision in only one eye on the grounds that impaired vision poses enough of a risk to the potential recipient to justify surgical invasion of the corpse to obtain the cornea. Some would not require that the recipient be nearby and ready for transplantation, but only that he or she be identified. In these days of organ banks, however, most rabbis would be satisfied when there is sufficient demand for the organ that it is known that it will eventually, but definitely, be used for purposes of transplantation. So, for example, the Rabbinical Assembly, the organization of Conservative rabbis, approved a resolution in 1990 to “encourage all Jews to become enrolled as organ and tissue donors by signing and carrying cards or drivers’ licenses attesting to their commitment of such organs and tissues upon their deaths to those in need.”

The traditional practice of waiting for twenty to thirty minutes after cessation of breath and heartbeat to declare death (described in “Determining death,” below) would generally be too long for doctors to be able to use the deceased person’s heart. Consequently, Conservative Rabbis Daniel C. Goldfarb and Seymour Siegel suggested in 1976 that a flat electroencephalogram, indicating cessation of spontaneous brain activity, be sufficient on the grounds that this would conform to the medical practice of our time just as our ancestors determined Jewish law in light of the medical practice of their time. In 1988, the Chief Rabbinate of the State of Israel approved heart transplantation, effectively accepting that a flat electroencephalogram guarantees that the patient can no longer independently breathe or produce heartbeat, and that ruling has become the accepted opinion of virtually all Jews, with the exception of a few Orthodox rabbis. The same consideration would apply to transplanting any other organ from a dying person, namely, whether the doctor is accelerating the death of the donor by removing the organ. If a flat electroencephalogram is confirmed, however, that concern is allayed, and removal is permissible.

According to the rulings of the vast majority of rabbis who have written on donation, then, cadaveric donations of skin, corneas, kidneys, lungs, colon, liver, pancreas, ovaries, testicles, the heart, bodily tissue, and, in general, any bodily part would be permissible, and even an act of special kindness (hesed), since using the body to enable someone else to live with full human faculties is not a desecration of the body but rather a consecration of it. At its meeting in December 1995, the Conservative Movement’s Committee on Jewish Law and Standards approved a ruling by Rabbi Joseph Prousser making cadaveric organ donation not only an act of special kindness (hesed), but a positive obligation (hovah). The chief considerations that motivated the committee to take that position were the lives that can be saved through organ transplantation and the importance of ensuring that living relatives not be pressured into making risky donations of their own organs due to a shortage of organs from cadavers.

The only concern is to make sure that the donor is indeed dead before the donation takes place. For most rabbis, including the Chief Rabbinate of the State of Israel, that means, in the age of modern technology, the cessation of all brain wave activity; for a few, it still requires cessation of breath and heartbeat. In recent times, some want to return to the old criteria to justify transplantation from “non-heartbeating donors” even when some brain wave activity is detectable, while others worry that this will all too easily motivate physicians to curtail the treatment of the donor. At this stage, rabbinic opinion on this new procedure has not been settled.

Whichever definition of death is used, though, once death has occurred, the prohibitions against
desecration of the dead, deriving benefit from the dead, and delaying the burial of the dead are suspended for the greater consideration of saving the recipient’s life or restoring his health, thus giving even greater honor to the deceased.81

Animal or artificial organs
Because donated organs are in short supply, physicians have recently tried to use animal or artificial organs. The use of such organs would afford a reliable, relatively inexpensive supply for transplant, and it would also obviate the need to make precise determinations of the moment of death so that a vital organ might be transplanted. From a Jewish perspective, these are certainly great advantages.

Although some have raised questions about the use of animal parts for direct transplant or for making artificial organs, such uses are not a problem in Jewish law or ethics. Judaism, after all, does not demand vegetarianism, and, if we may eat the flesh of animals under Judaism’s dietary rules (kashrut), then we may certainly use animal parts for saving a life. Indeed, as we have seen, Jewish sources go further; they hold that if the use of animal parts can save a human life, we have a moral and religious obligation to use them. They do not even have to be from a kosher animal, for saving a human life takes precedence over the dietary laws. Consequently, those Jews who choose to be vegetarians (and there is support for this option within the tradition) would nevertheless be obliged to use animal parts for medical purposes if such therapy held the greatest promise for curing a person or saving a life.

While porcine valves and other animal derivatives have been successfully used in surgery, to say nothing of mechanical and other artificial devices, at present the use of animal or artificial organs is still in an early, experimental stage. Patients who have undergone such operations have not been cured, and sometimes they have given up what could have been several months of life. Even so, if there is no known cure for a disease, and if an experimental drug or surgical procedure offers any chance for cure, Jews may choose to use the drug or undergo the operation, although they are not obligated to do so.82

MENTAL HEALTH

The Bible describes in detail the paranoid psychopathia and perhaps the epilepsy of King Saul, and others in the Bible and Talmud suffer from visual and auditory hallucinations, insanity, and “possession by demons or spirits.”83 Because insanity has legal implications, the Rabbis of the Talmud tried to define it as specifically as possible:

Our Rabbis taught: Who is deemed an insane person? He who goes out alone at night, and he who spends the night in a cemetery, and he who tears his garments. It was taught: Rabbi Huna said: he must do all of them [to be considered insane]. Rabbi Johanan said: Even if [he does only] one of them [he is considered insane]. It was taught: Who is deemed insane? One who destroys everything which is given to him.84

Maimonides notes, however, that these are of course to be construed as examples, not as an exhaustive definition of insanity.85 Moshe Halevi Spero, a contemporary Orthodox psychologist, suggests specific criteria for determining mental disorders in the cases of a person who commits suicide or a woman who seeks an abortion or permission to use contraceptive devices for reasons of mental health. “Generally speaking,” he writes, “shtus [insanity] might denote one who has lost the ability to reason or make reality-based judgments. Shtus may also signify the loss of emotional control.”86

The Talmud permitted lighting a candle in violation of the Sabbath rules for a woman in labor in order to spare her psychic anguish.87 Citing that precedent, Nahmanides (thirteenth century)
specifically included mental illness in the category of “saving one’s life” (pikkuah nefesh) so that almost all obligations and prohibitions could be laid aside in order to save a person’s mental health as well as his physical health.86

The important thing to note here is that the Jewish tradition sees mental illness as an illness and not as a moral fault. Judaism therefore does not treat mental illness as something for which one should repent or be punished, but rather as something that one should seek to prevent or cure as part of the general Jewish obligations to take care of ourselves and to heal.

MEDICAL EXPERIMENTATION AND RESEARCH

Because of the strong imperative within the Jewish tradition to heal, medical experimentation is not only condoned, but prized, and the artificial nature of the cures that researchers might concoct was never an issue. What is required is that the new therapy offer the hope that the person will be helped in a way, or to an extent, that any less dangerous therapy does not, and that due experimentation on animals be conducted before the new therapy is tried on human beings. If the patient—whether adult or child, born or unborn—suffers from an incurable illness, experimental procedures or drugs may be used in an attempt to cure the illness, even if they pose the risk of hastening the person’s death or fail to effect a cure. The intention of all concerned, though, must be to try to heal the person and not to commit active euthanasia.

If a fetus has been aborted for reasons approved by Jewish law, it may be used for purposes of transplantation or research. If a family member suffers from leukemia and no appropriate bone marrow match is available, a married couple may seek to have another child in an attempt to find such a match, but only if they will not abort the child even if it becomes clear that the child is not the match they seek. They may also choose to have a child through in vitro fertilization so that they can choose an embryo that will be a match. Clearly, they must then treat the new child not simply as a means to an end, but as their full-fledged child.

A person may volunteer to undergo an experimental procedure that holds out no hope to improve his or her own health but may increase medical knowledge only if it subjects the person to minimal or no risk. One’s duty to preserve one’s own life takes precedence over one’s obligation to help other people preserve theirs.

Animal life is respected in the Jewish tradition: one may not subject animals to unnecessary pain. One must not, for example, yoke together a donkey and an ox for plowing (Deuteronomy 22:10) since the much greater strength of the ox would inevitably cause the donkey much pain. Animals to be used for food must be slaughtered according to Jewish law, which seeks to make the slaughter as quick and as humane as possible. Animals, however, occupy a lower place on the ladder of life than human beings do. Consequently, they may and should be used to test new drugs or procedures intended to help human beings maintain or regain their health. It would be irresponsible, in fact, not to do so. Only if a person were dying anyway would he or she be allowed to use an experimental drug or procedure without prior testing on animals.
DEATH AND DYING

GENERAL CONCEPTS AND CATEGORIES

When we consider issues at the end of life, a few definitions will set the stage for the discussion. Murder is the malicious taking of another's life without a legal excuse such as self defense. Active euthanasia is a positive act with the intention of taking another's life, but for a benign purpose, for example, to relieve the person from agonizing and incurable pain. Passive euthanasia is a refusal to intervene in the process of a person's natural demise.

Judaism prohibits murder in all circumstances, and it views all forms of active euthanasia as the equivalent of murder. That is true even if the patient asks to be killed. Because each person's body belongs to God, the patient does not have the right either to commit suicide or to enlist the aid of others in the act, and anybody who does aid in this plan commits murder. No human being has the right to destroy or even damage God's property.

The patient does have the right, however, to pray to God to permit death to come, for God, unlike human beings, has the right to destroy his own property. Moreover, Judaism does permit passive euthanasia in specific circumstances, and in our day it is those circumstances that are of extreme medical interest.

Unfortunately the sources in this area are sparse, for until the advent of antibiotics in 1938, physicians could do very little to prevent death unless the problem could be cut out of the patient surgically. Since physicians can now do a great deal for the dying, Jews seeking moral guidance from the Jewish tradition must place a heavy legal burden on the few circumstances in the past in which people thought they had an effective choice about whether to delay death or not. The dearth of such cases leads to considerable disagreement on specific clinical issues; it also poses significant methodological questions as to how the tradition can be legitimately accessed and applied to contemporary circumstances so very different from the past.

CLINICAL ISSUES

Determining death

Classical Jewish sources use two criteria for death. One is the breath test, in which a feather is placed beneath the nostrils of the patient to see if it moves. The exegetical bases for this test are the verses in Genesis according to which “God breathed life into Adam” (2:6) and the Flood killed “all in whose nostrils is the breath of the spirit of life” (7:22), but there clearly is also a cogent, practical reason for using the breath test—namely, that it is easy to administer.

Later codifiers insisted on both respiratory and cardiac manifestations of death. Some even held that the Talmud sanctioned the breath test only because it normally is a good indication of the existence of heartbeat, but actually it is the cessation of heartbeat that forms the core of the Jewish definition of death. Moreover, in the sixteenth century Rabbi Moses Isserles ruled that “nowadays” we do not know how to distinguish death with accuracy from a fainting spell, and consequently even after the cessation of breath and heartbeat we should wait a period of time before assuming that the person is dead. Some contemporary rabbis claim that we should still wait twenty or thirty minutes after observing these signs, but others claim that the availability of the sphygmomanometer and electrocardiogram permit us to revert to the traditional mode of defining death as cessation of breath and heartbeat.

Forgoing life-sustaining treatment

When does the Jewish obligation to cure end, and when does the permission—according to some, the obligation—to let nature take its course begin?

Authorities differ. All agree that one may allow nature to take its course once the person becomes a goses, a moribund person. But when does that state begin? The most restrictive position is that of Rabbi J. David Bleich, who limits it to situations when all possible medical means
are being used in an effort to save the patient, and nevertheless the physicians assume that he or she will die within seventy-two hours.96 Others define the state of goses more flexibly as up to a year or more or in terms of symptoms rather than time, and they then apply the permission to withhold or withdraw machines and medications more broadly.97

In a rabbinic ruling approved by the Conservative Movement’s Committee on Jewish Law and Standards, I noted that Jewish sources describe a goses as if the person were “a flickering candle,” so that he or she may not even be moved for fear of inducing death.98 That applies only to people within the last hours of life. Consequently, I argued, the appropriate Jewish legal category to describe people with terminal, incurable diseases, who may live for months and even years, is, instead, terefa. Permission to withhold or withdraw medications and machines would then apply to people as soon as they are in the state of being a terefa, that is, as soon as they are diagnosed with a terminal, incurable illness.

One important operating principle in these matters is this: since Jewish law does not presume that human beings are omniscient, only the best judgment of the attending physicians counts in these decisions. Even if some cure is just around the corner, we are not responsible for knowing that. We must proceed on the best knowledge available at the time and place at hand. If the person is currently deemed incurable, then machines and medications may be withdrawn and palliative care administered.

Artificial nutrition and hydration
In our own day, people in comas are fed through tubes. All available forms of intubation are uncomfortable and pose some risk of infection, but they do give comatose patients the fluids and nutrients they need while their bodies have a chance to recover from the coma.

If the person has been comatose for a number of months, however, and there seems to be little, if any, hope of recovery, may one remove such tubes? On the one hand, just as all of us need food and liquids, the patient needs the artificial nutrition and hydration that flow through the tubes. Those who see it this way maintain that while we may withhold or withdraw medications and machines, we may not withhold or withdraw artificial nutrition and hydration.99

On the other hand, the nutrients that enter the body through tubes look exactly like medications administered that way and, more to the point, the Talmud specifically defines “food” as that which is ingested through the mouth and swallowed.100 Consequently, in the ruling I wrote for the Conservative Movement’s Committee on Jewish Law and Standards, I ruled that while we must go through the motions of bringing in a normal food tray at regular meal times to a comatose patient, we need not administer nutrition and hydration artificially. We may, of course, and we should do so as long as there is a reasonable chance that the patient may recover. When that outcome can no longer be reasonably expected, however, so that the artificial nutrition and hydration are just prolonging the dying process, they may be removed.101

Curing the patient, not the disease
The important thing to note, however, is that there is general agreement that a Jew need not use heroic measures to maintain her life but only those medicines and procedures that are commonly available in the person’s time and place. We are, after all, commanded to cure based on the verse in Exodus 21:19, “and he shall surely cure him.” We are not commanded to sustain life per se.102 Thus, on the one hand, as long as there is some hope of cure, heroic measures and untested drugs may be employed, even though this involves an elevated level of risk. On the other hand, though, physicians, patients, and families who are making such critical care decisions are not duty-bound by Jewish law to invoke such therapies.

This should help us deal with a common phenomenon. A person is suffering from multiple, incurable illnesses, one of which is bound to
cause death soon. It often happens that such a person develops pneumonia, and doctors are then in a quandary. A generally healthy person who contracts pneumonia would be treated with antibiotics, and often the drugs would bring cure. In those situations both the physician and the patient would be required to use antibiotics according to Jewish law, and few would need Jewish law to convince them to do so. But what happens in the case referred to above? The physician can probably cure the pneumonia, but that would only restore the patient to the pain and suffering caused by his or her other terminal maladies. The alternative would be to let the patient die of the pneumonia so that death would come more quickly.

From the perspective of Jewish law, the question is whether our inability totally to cure the person gives us the right to refrain from curing what we can. Normally we do not have this right. So, for example, we must try to cure the pneumonia of a child who has Down’s Syndrome, even though we cannot cure the Down’s Syndrome. If a person has a terminal illness, however, we would not need to intervene; we may rather let nature take its course. We must view the person as a whole rather than consider each individual disease separately. Therefore even though we could probably cure the pneumonia, and even though the means for doing so are not unusual at all, nevertheless the person cannot be cured, and therefore we may refrain from treating the pneumonia if that will enable the patient to die less painfully. This is in line with the strain in Jewish law that does not automatically and mechanically assume that preservation of life trumps all other considerations, but rather judges according to the best interests of the patient.103

Pain control and palliative care
The fact that Jewish law does not require the use of heroic measures means that a Jew may enroll in a hospice program in good conscience and that rabbis may suggest this in equally good conscience. While there are some buildings called “hospices,” hospice care typically does not take place in a special facility. Rather the patient lives at home as long as possible, doing whatever he can do. The word “hospice” thus designates not so much a building, but a form of care. The goal of hospice care is not to cure the disease, but to make the patient as comfortable as possible. In doing so, it is permissible to prescribe a dosage of pain medication that may actually hasten the patient’s death, as long as the intent is not to kill the person but rather to alleviate his or her pain.104

Hospice care also crucially includes all the non-medical ways in which people are supported when they go through crises. First on that list are the forms of care provided by family and friends who keep the patient company and make the patient feel that she is still part of their world and not simply a locus of illness and pain. Nurses, social workers, and rabbis may also be involved at various points in the patient’s care.

Moreover, if the doctors can use extraordinary means but only at great cost or by inflicting great pain, and even then with only a slight possibility of cure, Jewish law would permit such action but would not require it. Consequently, a Jew may legitimately refuse supererogatory medical ministrations and may sign an advance directive for health care (sometimes called a “living will”) indicating his desire to decline such care, choosing instead only to alleviate whatever pain is involved in dying. When cure is not possible, both the patient and the physician cease to have an obligation to do more medically than ease pain. Similarly, family and friends should not pressure the patient or physician to employ extraordinary or futile measures; they should instead focus on their continuing duties to visit the sick and provide all forms of non-physical comfort. All four movements in American Judaism have produced their own versions of a Jewish advance directive, each according to its own understanding of Jewish law, and while they differ in tone and substance on a number of matters, they all permit hospice care.
CARE OF THE DECEASED

General principles
The treatment of these topics in Jewish law depends on two primary principles. The general tenet that governs treatment of the body after death is *kavod ha-met*, that is, we should render honor to the dead body. This is not only demanded by respect for the deceased person; it also derives from the theological tenet that the body, even in death, remains God’s property.

The other principle which affects the topics of this section is that of *pikkuah nefesh*, the obligation to save people’s lives. That tenet is so deeply embedded in Jewish law that, according to the rabbis, it takes precedence over all other commandments except those forbidding murder, idolatry, and incestuous or adulterous sexual intercourse. That is, for example, if one’s choice is to murder someone else or give up one’s own life, one must give up one’s own life. If, however, one needed to violate the Sabbath laws or steal something to save one’s own life, then one is not only permitted, but commanded to violate the laws in question to save a life. Jews are commanded not only to do virtually anything necessary to save their own lives; they are also bound by the positive obligation to take steps to save the lives of others. This imperative is derived from the biblical command, “Do not stand idly by the blood of your neighbor” (Leviticus 19:16). Thus, for example, if you see someone drowning, you may not ignore her but must do what you can to save her life.

What happens, though, when you can only save your life or someone else’s? Whose life takes precedence? The opinion that ultimately wins the day in Jewish legal literature is that of Rabbi Akiba. Under morally impossible circumstances, when an untoward result will happen no matter what one does, Rabbi Akiba directs us to remain passive and let nature take its course.

With these underlying principles in mind, we are now prepared to address the subjects of this section.

Cremation
Jewish law prohibits cremation as the ultimate form of dishonor of the dead. Cremation also represents the active destruction of God’s property, and it is improper for that reason as well. In the generations after Hitler’s gas chambers, burning the bodies of our own deceased seems especially inappropriate.

Autopsies
The two procedures that are permitted to interrupt the normal Jewish burial process are autopsies and organ transplants (see “Organ and tissue transplantation,” above). Autopsies were known in the ancient world, but Jewish sources indicate that they were largely looked upon as violations of human dignity. As the prospect of gaining medical knowledge from autopsies has improved, many rabbis have come to view them more favorably. Israeli Chief Rabbi Isaac Herzog enunciated a definitive position in his 1949 agreement with Hadassah Hospital. Under that agreement, autopsies would be sanctioned only when one of the following conditions occurred:

a. The autopsy is legally required.
b. In the opinion of three physicians, the cause of death cannot otherwise be ascertained.
c. Three physicians attest that the autopsy might help save the lives of others suffering from a similar illness.
d. Where a hereditary illness was involved, an autopsy might safeguard surviving relatives.

In each case, those who perform the autopsy must do so with due reverence for the dead and, upon completion of the autopsy, they must deliver the corpse and all of its parts to the burial society for interment. This agreement was incorporated into Israeli law four years later.

When an autopsy is justified for legal or medical reasons, it is construed not as a dishonor of the body, but, on the contrary, as an honorable use of the body to help the living. New procedures, such as a needle biopsy of a palpable
mass, or a peritoneoscopy with biopsy, may soon accomplish most of the same medical objectives in a less invasive way that would clearly be preferable from a Jewish point of view.108

Donating one's body to science
May one donate one's entire body to science for dissection by medical students as part of their medical education? Objections to this practice focus on the desecration of the body involved in tearing it apart and the delay in its burial until after the dissection. Rabbi Bleich and others take a very hard line on this issue, claiming that any invasion of the corpse for purposes of autopsy or transplant is warranted only if there is a holeh lefaneinu, a patient who will benefit immediately thereby.109 In contrast, Israeli Chief Rabbi Herzog issued the following statement in 1949:

The Plenary Council of the Chief Rabbinate of Israel ... do not object to the use of bodies of persons who gave their consent in writing of their own free will during their lifetime for anatomical dissections as required for medical studies, provided the dissected parts are carefully preserved so as to be eventually buried with due respect according to Jewish law.HO

This seems to me a much more sensible reading of the sources and the process of medical research than that of Rabbi Bleich. Dissection is crucial to the preparation of physicians. Consequently, participating in medical education in this way is an honor to the deceased and a real kindness in that it helps the living. The levity that sometimes accompanies dissection does not mean that medical students find dissection funny; it is perhaps a way for them to dissipate their discomfort in handling a corpse. No disrespect is intended, and therefore dissection is not objectionable on that ground.

Rabbi Isaac Klein cites yet another argument to permit the donation of one's body to science:

In a country where the Jews enjoy freedom, if the rabbis should refuse to allow the Jewish dead to be used for medical study, their action will result in hillul ha-shem [a desecration of God's Name], for it will be said that the Jews are not interested in saving lives; there is (therefore) reason to permit it.111

This argument would not apply, however, if there are ample bodies available for dissection. Then the donor would be giving no special gift to future physicians and their patients, and there would be no particular taint involved if Jews do not generally donate their bodies for this purpose. Since medical schools currently have more than enough bodies from county morgues, largely bodies of unknown people that have been abandoned, Jews need not and therefore should not offer to have their bodies dissected, for there is no medical necessity to set aside the honor due a corpse according to the Jewish concept of kavod ha-met.

In sum, then, most Jewish authorities would not only permit, but would encourage people to arrange to donate their organs to others upon their demise, and some would even permit donating one's entire body to medical science. The only conditions are that the remains should ultimately be buried according to Jewish law and custom, and that the family of the deceased agree to donate.112 By graphically indicating that the person has died, burial helps people gain the emotional catharsis and closure that they need. Therefore the permission of the family is necessary not only to accord with American law, but also to assure that, even without immediate burial, relatives of the deceased in the particular case at hand can effectively carry out the mourning process and thus have psychological closure and return to their lives in full. If they feel that closure would not be possible under these conditions, families may refuse to give permission for organ donation or dissection, and they should not feel guilty for doing so.

Social support of the sick
Caring for a person is not a matter of physical ministrations alone. The Jewish tradition is well aware that recovery is often dependent upon the
social and psychological support—or lack thereof—that family and friends provide. Indeed, in cases where people ask to die, it is often because nobody is around to pay any attention to them.

To combat that, the Jewish tradition imposes the obligation on us of *bqiqur holim*, visiting the sick. That is a *mitzvah*, a commanded act and an expected behavior, not only for rabbis, but for all Jews. Each synagogue and Jewish social group should have an active *bqiqur holim* society. Rabbis, psychologists, and social workers might train the members of the society on how to visit a bedridden person. This should include simple techniques like not standing over the bed but rather sitting down next to the patient so that the two of you are on the same plane, and it should also include more complex matters, like how to engage the patient in conversation about matters beyond the food served for lunch that day. The Jewish tradition, then, not only obligates us to cure, but to care. Our medical facilities and our residence homes need to be not only medically sound, but warm, caring places. Moreover, our communities must consist of caring people who know that the Torah is serious when it says, “Love your neighbor as yourself” (Leviticus 19:18).

SPECIAL CONCERNS

**JEWISH DIETARY LAWS**

Traditional Jews observe the Jewish dietary laws (*kashrut*); they “keep kosher.” The Hebrew word means “ritually fit” (in this case, for eating). The rules of *kashrut* restrict permitted foods to meat that comes from animals that have split hooves and that chew their cud (primarily cows and sheep), domestic fowl (primarily chicken, turkey, and duck), and to fish with scales and fins (trout, cod, whitefish, salmon, pike, etc.; *not* shellfish like shrimp, mussels, lobster, etc.). (See Leviticus 11 and Deuteronomy 14 for these rules.) The animals and fowl must then be slaughtered in a specific way (*shehitah*) to minimize pain to the animal, and the blood must be drained from the meat through a washing and salting process or through broiling. Finally, meat and dairy products may not be prepared or eaten together.

In the hospital setting, some Jews want to order kosher meals. If medical concerns preclude that (if, for example, the patient may not have salt), kosher meals prepared with such restrictions in mind may be available. If not, fruits, vegetables, and many dairy products may be eaten without rabbinic certification of their *kashrut*.

If the physician asserts that the patient’s medical condition requires non-kosher food of a particular sort, the patient both may and must obey, for saving life and health takes precedence over the dietary laws. Such instances, however, are rare, for it must be a true medical necessity for that concern to override the dietary laws. Generally, even if the patient may not eat some particular foods, other kosher foods that supply the patient’s nutritional needs are available.

**RELIGIOUS OBSERVANCES BASED ON THE TORAH**

In the Jewish calendar, days begin and end at sunset. Sabbaths begin eighteen minutes before sunset on Friday night and end forty minutes after sunset on Saturday night to make sure that the Sabbath is not violated.

*The Sabbath*

During the Sabbath (in Hebrew, *shabbat*, or, in Yiddish, *shabbes*), thirty-nine types of activity are prohibited. These include writing, doing business, washing clothes, cooking, carrying from one person’s domain to another’s or to the
public thoroughfare, and lighting or extinguishing a fire. Some Jews understand that last interdiction to prohibit the use of electricity (except that which has been turned on before the Sabbath begins or that which is turned on by a non-Jew who does it on his or her own), while others distinguish between lighting a fire and using electricity, prohibiting the former but permitting the latter. Even those who use electricity may or may not use the television or radio on the Sabbath; those who do not permit listening to radio or watching television on the Sabbath refrain from this because of the commercial nature of the advertisements every few minutes. Shaving, using electricity or not, is prohibited on the Sabbath.

In addition to these prohibitions, the Sabbath involves positive commandments. In preparation for the Sabbath, one is supposed to clean one’s home, shower, wear clean clothes, make festive meals. These are all part of the honor due to the day and the joy that is to accompany it. The day should include prayer and study of the Torah.

All of these rules are observed, albeit in somewhat different ways, by Jews in the Orthodox or Conservative movements who take seriously their movements’ commitment to Jewish law. Members of those movements who nevertheless do not live by that commitment, and Jews in the Reform or Reconstructionist movements, which ideologically assert that contemporary Jews are not bound by Jewish law, and secular Jews whose Jewish affiliation is solely ethnic and not religious, may abide by some of these restrictions and may perform some of the positive acts associated with the Sabbath and the other holy days, but will probably not practice all of them. Such Jews—and they are the vast majority—will instead pick those traditional practices that are meaningful to them, observing them in their own way. Non-Jews caring for Jews, then, must be keenly aware of the wide variation among Jews vis-à-vis all of the traditional practices described here and in the following sections. As Jews are wont to say, “Where there are two Jews there are at least three opinions!”

Rosh Hashanah, Sukkot, Shemini Atzeret, Simhat Torah, Passover, Shavuot

Because the Jewish calendar is lunar, the days on which the seasonal holy days occur do not always coincide with the same day in the solar calendar generally in use. A yearly Jewish calendar, available from synagogues and other Jewish institutions, must be consulted.

The laws governing these biblical holy days are exactly the same as those governing the Sabbath, except that one is permitted to carry and to cook on a fire that was lit before the holiday began or was transferred from such a fire. Each has its own special character, message, and observances.

Passover, in particular, involves special dietary restrictions, and even Jews who are otherwise lax in their religious observances may want to order kosher-for-Passover food during the holiday.

Yom Kippur

Yom Kippur (the Day of Atonement) is the holiest day of the year. Jews fast throughout the day, and they spend most of the day in the synagogue praying, meditating, listening to the Torah reading and the rabbi’s sermons, and trying to achieve the moral and spiritual cleansing to which the day is devoted. A memorial prayer for the dead (Yiskor) is said on this day as part of the liturgy, and Jewish hospital patients may want to gather together at least to hear that prayer. (It is also recited on Shemini Atzeret and on the last days of Passover and Shavuot.)

All of the other restrictions of the Sabbath apply on Yom Kippur as well. With regard to the fast, though, if a physician instructs a Jew that he or she must eat on Yom Kippur because his or her physical condition cannot tolerate the fast, the Jew is bound by Jewish law to follow the doctor’s instructions.

Historical Holidays and Days of Mourning

In addition to the holy days mandated in the Torah, Jews observe a number of holidays and
days of mourning that commemorate events in Jewish history. None of the legal restrictions of the Torah’s holy days applies to these days, but they do have special requirements and customs of their own.

**Hanukkah**

Near the time of the winter solstice, Jews celebrate Hanukkah, the festival of lights and of religious freedom. Jews light a *menorah* (or *hanukkiah*), beginning with one candle on the first night (in addition to the one used to light all the rest) and lighting one additional candle on each succeeding night. This is preceded by blessings and followed by songs. It is customary to eat foods made with oil on Hanukkah—typically fried potato pancakes (*latkes*) or doughnuts.

**Purim**

Purim takes place about a month before Passover, usually in March. The biblical Book of Esther is read, and *Hamentaschen*, three-cornered baked goods shaped that way to resemble the hat of Haman, are eaten.

**Yom Ha-Shoah**

Holocaust Remembrance Day is a relatively new observance within the Jewish community. It takes place about a week after Passover, and it generally includes commemorative worship services and lectures and study sessions about the Holocaust.

**Israel’s Day of Independence (Yom Ha-Atzma’ut)**

Jews the world over celebrate the reestablishment of a Jewish state in the homeland on the fifth of the Hebrew month of Iyyar, which usually falls sometime in May. Jews celebrate the day in a variety of ways, often with walks to raise money for Israel, Israeli dancing, the eating of typically Israeli foods, study sessions about Israel, and the like.

**Tisha B’Av and the minor fasts**

In late July or early August, the Fast of the Ninth of the Hebrew month Av occurs. Along with Yom Kippur, it is the only full fast day (from sunset to sunset). It commemorates the destruction of the first Jewish commonwealth in 586 B.C.E., as well as the fall of the second Jewish commonwealth in 70 C.E. In later times, it also became the national day of mourning for other tragedies that befell the Jewish people during the Crusades and Inquisition.

Four other “minor” fast days (that is, from sunrise to sunset) occur during the year and are observed by some Jews.

**PRAYER**

Traditional Jews pray three times a day, morning, afternoon, and evening. For the morning prayers, men (and now sometimes women) wear a prayer-shawl (*tallit*) and phylacteries (*tefillin*), black boxes with black leather straps that are bound to the biceps and the forehead. The boxes contain the four passages in the Torah where Jews are commanded to wear such symbols, and they help to dedicate worshipers to God and God’s commandments. Whenever praying or studying Jewish texts, Jewish men (and now some Jewish women) traditionally wear a head covering (*kippah* in Hebrew, *yarmulke* in Yiddish) or hat as a mark of reverence for God. If one can, one is supposed to pray with a prayer quorum (*minyan*) of ten Jews, but if that is not possible, one should pray on one’s own. All of the American Jewish movements have published their own prayer books, all of which come in versions with English translations accompanying the traditional Hebrew prayers. A rabbi is not needed to lead a community in prayer; any Jew who knows how may do so.

In addition to the daily prayers, Jews may pray to God at any time. Those in distress often use selections from the Book of Psalms as a source of comfort and hope. Prayers are traditionally offered in the synagogue on behalf of those who are ill, for Jews believe that physicians are God’s partners in the ongoing act of healing but that ultimately life and death and sickness and health are in God’s hands.
In all of the following, M. = Mishnah (edited c. 200 C.E.); T. = Tosefta (edited c. 200 C.E.); J. = Jerusalem Talmud (edited c. 400 C.E.); B. = Babylonian Talmud (edited c. 500 C.E.); M.T. = Maimonides’ Mishneh Torah (1177 C.E.); and S.A. = Joseph Caro’s Shulhan Arukh (1565 C.E.) with the glosses of Moses Isserles.

2. See also Isaiah 51:4. All biblical references are based on Tanakh: The Holy Scriptures (Philadelphia: Jewish Publication Society, 1988).
3. The percentages of affiliated Jews: Kosmin, et al., Highlights, 37. For a thorough description of the Conservative movement, together with a comparison of the theories of revelation and law of each of the movements, see Dorff, Conservative Judaism, 96–192.
4. In Dorff, Matters of Life and Death, 13-34, I describe seven foundational principles for Jewish medical ethics, but these three will suffice for purposes of this handbook.
5. See, for example, Deuteronomy 10:14; Psalms 24:1. See also Genesis 14:19, 22 (where the Hebrew word for “Creator” [koneh] also means “Possessor,” and where “heaven and earth” is a merism for those and everything in between); Exodus 20:11; Leviticus 25:23, 42, 55; Deuteronomy 4:35, 39, 32–6.
6. J. Kiddushin 66d; cf. B. Sanhedrin 17b.
7. Hillel: Leviticus Rabbah 34:3; Maimonides: M.T. Laws of Ethics (De’ot), chaps. 3–5.
8. B. Shabbat 32a; B. Bava Kamma 15b, 80a, 91b; M.T. Laws of Murder 11:4–5; S.A. Yoreh De’ah 116:5 gloss; S.A. Hoshen Mishpat 427:8–10.
12. Genesis 9:5; M. Semahot 2:2; B. Bava Kamma 91b; Genesis Rabbah 34:19 states that the ban against suicide includes not only cases where blood was shed, but also self-inflicted death through strangulation and the like; M.T. Laws of Murder 2:3; M.T. Laws of Injury and Damage 5:1; S.A. Yoreh De’ah 345:1–3. Cf. Bleich, Judaism and Healing, chap. 26; and cf. Dorff, Matters of Life and Death, 176–198 and 375–376, where the official statement on assisted suicide of the Conservative Movement’s Committee on Jewish Law and Standards is reprinted (also in Mackler, Life and Death, 405–434).
14. This is based on Exodus 21:10. Cf. M. Ketubbot 5:6–7, and the later commentaries and codes based on those passages. This topic will be treated in a more expanded way below.
15. The law of the Nazirite appears in Numbers 6:11, and the Rabbis deduce from that law that abstinence is prohibited: B. Taanit 11a. Cf. also M.T. Laws of Eulogies (De’ot) 3:1.
16. M.T. Laws of Ethics (De’ot) 3:3.
17. Sifra on Leviticus 19:16; B. Sanhedrin 73a; M.T. Laws of Murder 1:14; S.A. Hoshen Mishpat 426.
19. B. Bava Kamma 85a, 81b; B. Sanhedrin 73a, 84b (with Rashi’s commentary there). See also Sifrei Deuteronomy, vol. 2, p. 43; this passage comes from Nahmanides’ Torat Ha’adam (The Instruction of Man), Sh’ar Sukkanah (Section on Danger) on B. Bava Kamma, chap. 8, and is cited by Joseph Caro in his commentary to the Tur, Bet Yosef. Yoreh De’ah 336. Nahmanides bases himself on similar reasoning in B. Sanhedrin 84b.
21. Midrash Temurah as cited in Ozar Midrashim, J.D. Eisenstein, ed. (New York, 1915), II, 580–581. Cf. also B. Avodah Zarah 40b, a story in which Rabbi expresses appreciation for foods that can cure. Although circumcision is not justified in the Jewish tradition on medical grounds, it is instructive that the rabbis maintained that Jewish boys were not born circumcised specifically because God created the world such that it would need human fixing, a similar idea to the one articulated here on behalf of physicians’ activity despite God’s rule; see Genesis Rabbah 11:6; Pesikta Rabbati 22:4.
22. B. Shabbat 10a, 119b. In the first of these passages, it is the judge who judges justly who is called God’s partner; in the second, it is anyone who recites Genesis 2:1-3 (about God resting on the seventh day) on Friday night, thereby participating in God’s ongoing act of creation. The Talmud, in B. Sanhedrin 38a, specifically wanted the Sadducees not to be able to say that angels or any being other than humans participates with God in creation.

23. See Dorff and Rosett, A Living Tree, for more on the sources, methods, and guiding beliefs of Jewish law.

24. For a thorough discussion of these methodological issues, including why and how Judaism uses law to discern moral duties and the relationship of law to duties beyond the law, see Dorff, Life and Death, 395-417.


26. B. Bava Mezia 49a; M.T. Laws of Ethics (De’ot) 2:5; cf. 5:13. Exodus 23:7; in context, that passage, like Exodus 20:13 in the Ten Commandments, may be talking specifically about the legal setting, warning that one not allege a false charge, but the later Jewish tradition understood it more broadly to forbid all falsehood. See, for example, B. Ketubbot 17a; B. Shavuot 30b, 31a. Moreover, other verses in the Bible itself, such as Psalms 101:7, Psalms 119:163, and Proverbs 13:5, condemn falsehood in general.

27. B. Ketubbot 16b-17a; S.A. Even Ha’ezer 65:1; cf. M.T. Laws of Ethics (De’ot) 7:1.

28. On this entire matter, the Rabbinical Assembly, the rabbinic body of the Conservative Movement within Judaism, has created a rabbinic letter designed for use with adults and with teenagers discussing the concepts, values, and laws of Judaism governing intimate relations, marriage, non-marital sex, and homosexuality. See Dorff, Conservative Judaism.


30. Zohar Habadash 4:50b. See also B. Yevamot 63a, where the Talmud cites Genesis 5:2 to prove that “An unmarried man is not a man in the full sense,” and B. Kiddushin 29b, where a prominent rabbi (Rabbi Huna) turns his back on a single man of great learning, telling him to return only after he has married.

31. B. Megillah 27a.

32. B. Yevamot 62b, based on Isaiah 45:18 (“Not for void did He create the world, but for habitation [lakve’er] did He form it”) and Ecclesiastes 11:6 (“In the morning, sow your seed, and in the evening [la’erev, understood to mean “in your older years”] do not withhold your hand”). M.T. Laws of Marriage 15:16.


34. Maimonides, Commentary to the Mishnah, Sanhedrin 7:4.

35. Cf. Feldman, Birth Control, 120 and part three generally; M.T. Laws of Ethics (De’ot) 4:19.


37. M.T. Laws of Forbidden Intercourse 16:2, 6; S.A. Even Ha’Ezer 5:2.

38. B. Shabbat 110b.


40. B. Yevamot 69b.

41. B. Niddah 17a.

42. Feldman, Birth Control, 265-266 and chap. 15.

43. M. Niddah 3:5.


45. Jakobovits, Jewish Medical Ethics, 186-87; 378-79, n. 173.

46. Mizrachi, Responsa, vol. 3; Yoreh De’ah no. 2.

47. Feldman, Birth Control, 284-294; Spero, Judaism and Psychology, chap. 12; Jakobovits, Jewish Medical Ethics, 189-190.

48. Bleich, Contemporary Halakhic Problems, 112-115; Rosner and Bleich, Jewish Bioethics, chap. 9, esp. 161 and 175, n. 97.


50. Waldenberg, Tzitz Eliezer, vol. 9, no. 51, and vol. 13, no. 102; S. Israeli, Amaud Hayemini, no. 35, cited in No’am, 16 (K.H.) 27 (note); Lev Grossnass, Responsa Lev Aryeh 2:205; Goldman, Judaism Confronts, chap. 3, esp. 52-62.

51. Jakobovits, Jewish Medical Ethics, 264; Bleich, Judaism and Healing, 82-84.

52. Bleich, Judaism and Healing, 84, n. 3.

53. Bleich, Judaism and Healing, 80-84, cites all of the following as requiring physical contact of the genital organs for adultery to occur: R. Shalom Mordecai Schwadron, Teshuvot Zekan Aharon, II, no. 97; R. Yehoshua Baumol, Teshuvot Emet Hakalah, no. 68; R. Ben Zion Uziel, Mishpetei Uziel, Even Ha-Ezer, I, no. 19; R. Moshe Feinstein, Igrot Moshe. Even Ha-Ezer, I.
no. 10; and R. Eliyahu Meir Bloch, Ha-Pardes, Sivan 5713. Nevertheless, as he points out, these Orthodox rabbis would prohibit donor insemination on the grounds of potential incest in the next generation, as discussed in the next paragraph. Moreover, some Orthodox rabbis Bleich cites (R. Yehudah Leib Zirelson, R. Ovadiah Hadaya, R. Eliyahu Waldenberg) do not require genital contact for adultery, and so they would object to donor insemination on that ground as well.

54. Dorff, Matters of Life and Death, 69–72, 104, and chap. 4 generally; Mackler, Life and Death, 40–41.

55. Dorff, Matters of Life and Death, chap. 4; Mackler, Life and Death, 40–41.

56. Jakobovits, Jewish Medical Ethics, 248–49.

57. Spirtas, Kaufman, and Alexander, “Fertility Drugs,” 291–92. I want to thank my friend, Dr. Michael Grodin, for sharing this article with me. The 1988 Congressional report also reported a number of other possible complications caused by drugs commonly used to stimulate the ovaries, including early pregnancy loss, multiple gestations (fetuses), ectopic pregnancies, headache, hair loss, pleuropulmonary fibrosis, increased blood viscosity and hypertension, stroke, and myocardial infarction (U.S. Congress, Office of Technology Assessment, Infertility, 128–129).

58. Feldman, “Ethical Implications.”


60. Bleich, Judaism and Healing, 85–91; Dorff, Matters of Life and Death, 41–42, 44–45, 66; Mackler, Life and Death, 30, 38, 63, 102, 112.

61. Genesis 16:2 uses a play on words in Hebrew when Sarai says to Abram, “Look, the Lord has kept me from bearing. Consort with my maid [Hagar]; perhaps I shall have a son [also, I shall be built up] through her.” This indicates that Ishmael, the son who resulted from this union, was not only to be considered Abram’s son, but Sarai’s as well. Similarly, Rachel tells Jacob, “Here is my maid Bilhah. Consort with her, that she may bear on my knees and that through her I too may have children” (Genesis 30:3). At that time, Rachel was infertile (she gave birth to Joseph and Benjamin only later), but Leah, who had already had four sons, also gave her handmaid, Zilpah, to Jacob, and when Zilpah bore two sons, Leah said, “What fortunate” meaning, “Women will deem me fortunate” (Genesis 30:13) —indicating that those two sons were ascribed to Leah as well. That Leah had stopped bearing and therefore resorted to the use of her handmaid Zilpah: Genesis 30:9. That she later bore three more children: Genesis 30:14–21.

62. B. Bava Batra 168a; cf. B. Bava Mezia 48b, 65b, 104a–b.

63. The differences among the denominations of Judaism on defining Jewish identity come into play here as well as various rabbis’ application of their own criteria to surrogacy. The Conservative movement’s position is that the bearing mother determines Jewish identity; see Mackler, Life and Death, 108–110, 174–187. For a description of some of the Orthodox positions, see Bleich, Judaism and Healing, 93–95. For the Reform position on the criteria for conferring Jewish status on children of mixed marriage and on surrogacy, see Jacob, American Reform Responsa, 505–507, 547–550, and Jacob, Contemporary American Responsa, 61–72, esp. 70–71 (dated February 1984).

64. “The law of the land is the law”: B. Neḥarim 28a; B. Gittin 10b; B. Bava Kamma 113a; B. Bava Batra 54b–55a. On this principle generally, see Dorff and Rosett, A Living Tree, 515–23, 527, 539–45. That Jewish law would never permit to Jews what is forbidden to non-Jews: B. Sanhedrin 59a.

65. Gold, And Hannah Wept, 123.

66. See, for example, Bleich, Judaism and Healing, 92–95. While Rabbi Bleich generally prohibits or limits the use of new medical procedures, here he specifically argues against Rabbi Jakobovits’ claim that surrogacy is inherently immoral and spends most of his discussion on the question of the Jewish identity of the child. See also Gold, And Hannah Wept, 120–127, and, especially, a new, detailed paper on the subject by Rabbi Elie Spitz, approved by the Conservative Movement’s Committee on Jewish Law and Standards (in Mackler, Life and Death, 129–161)—although another ruling approved by the Committee, by Rabbi Aaron Mackler, takes a decidedly less liberal stance (Mackler, Life and Death, 162–173).

67. B. Bava Kamma 37a; B. Gittin 37a.

68. B. Ketubbot 50a.


70. Exodus Rabbah 46:5; cf. also B. Sanhedrin 19b.

71. Dorff, Matters of Life and Death, 72–79 [in Mackler, Life and Death, 42–49].

72. Rabbi Avram Reisner reasons this way in a responsa entitled “Peri- and Neo-Natology,” included in Mackler, Life and Death, 386–402. That a child’s life is not confirmed until thirty days of age is according to B. Shabbat 135b. M. Niddah 5:3, however, states that from

THE PARK RIDGE CENTER 31
the moment of birth a child is, to his or her parents and relatives, “like a bridegroom [or bride]”—that is, that the parents and relatives, if not the rest of society, assume that the child is alive and well and will ultimately marry. Based upon that opinion, and our advanced scientific knowledge that enables us to determine the gestational age of a child more accurately, the Conservative Movement’s Committee on Jewish Law and Standards endorsed a responsum by Rabbi Stephanie Dickstein, “Mourning Practices for Infants Who Die Prior to the Thirty-First Day of Life,” requiring that full mourning rites be used for a child who dies within the first thirty days of life—contrary to the traditional practice of simply burying the child privately without communal participation and without the traditional rites of the seven days of mourning following burial.

73. Bleich, Judaism and Healing, 106.

74. Ornstein and Hernandez, “Hospitals Face Dire Shortage.”

75. B. Bava Metzia 62a.

76. Jakobovits, Jewish Medical Ethics, 291; see also 96–98. That is the generally held opinion regarding living donors is true not only for Orthodox rabbis, some of whom he refers to, but also for Conservative and Reform rabbis. For Orthodox opinions, see Moshe Feinstein, Igrot Moshe, Yoreh De'ah 229 and 230 (Hebrew); Eliyzer Waldenberg, Tiz Eliezer, vol. 9, no. 45, and vol. 10, no. 25 (Hebrew); Obadiah Yosef, Dinei Yordet, vol. 7 (Hebrew). For a Conservative position—the only one I know of to date on living donors—see Dorff, Matters of Life and Death, 226. For Reform positions, see Freehof, New Reform, 62ff; Freehof, Current Reform, 118–125; and Jacob, Contemporary American Responsa, 128–133.


78. Proceedings 1990: 279. Although somewhat dated, a good summary of the positions of all three movements, with relevant quotations from responsa and other official position statements, can be found in Goldman, Judaism Confronts, 211–237. That source includes quotations from two responsa approved by the Conservative Movement’s Committee on Jewish Law and Standards. A similar stance can be found in the work of two other Conservative rabbis, namely, Klein, Responsa, chap. 5, and Feldman, Health and Medicine, 103–108.

For a summary of Orthodox positions, see Jakobovits, Jewish Medical Ethics, 278–291, and Fred Rosner, “Organ Transplantation in Jewish Law,” in Rosner and Bleich, Jewish Bioethics, 387–400. For a Reform position on this question, see Freehof, “The Use of the Cornea,” and Freehof, “Surgical Implants” (both reprinted in Jacob, American Reform, 288–296); Freehof, “Donating a Body to Science,” in Freehof, Reform Responsa, 130–131; and Freehof, “Bequeathing Parts of the Body,” in Freehof, Contemporary Reform, 216–233. In a March 1986 responsum, the Central Conference of American Rabbis as a body officially affirmed the practice of organ donation, and the synagogue arm of the Reform Movement, through its Committee on The Synagogue as a Caring Community and Bio-Medical Ethics, published a manual on preparing for death that specifically includes provision for donation of one’s entire body or of particular organs to a specified person, hospital, or organ bank for transplantation and/or for research, medical education, therapy of another person, or any purpose authorized by law. The manual is Address, A Tune to Prepare.


80. For a summary of some of the varying Orthodox opinions on this subject up to 1978 in America, England, and Israel, see Goldman, Judaism Confronts, 223–229. See also Rosner and Bleich, Jewish Bioethics, 367–71; Bleich, Judaism and Healing, 146–157. For the Israeli Chief Rabbinate’s ruling, see Jakobovits, “[Brain Death and] Heart Transplants.”

For Conservative positions, see the opinion of Jack Segal, cited in Goldman, Judaism Confronts, 229–230, n. 42; Siegel, “Fetal Experimentation” and “Updating” Goldfarb, “Definition.” The first official endorsement of the new criteria for the Conservative Movement came in the approval of the Conservative Movement’s Committee on Jewish Law and Standards in December 1990 of the responsum by Rabbis Elliot N. Dorff and Avram Reisner (see Dorff, “Jewish Approach”; Reisner, “Halakhic Ethic”), both of which assume and explicitly invoke the new medical definition.

The Reform Movement officially adopted the Harvard criteria (presumably as modified by the medical community) in 1980 (Jacob, American Reform, 273–274).


82. Jakobovits, Jewish Medical Ethics, 263, n. 69; Bleich, Judaism and Healing, chap. 20.

83. Preuss, Biblical and Talmudic Medicine, chap. 11; Gorlin, “Mental Illness.”

84. B. Hagigah 3b–4a.
86. Spero, Judaism, 175, 174-78.
87. B. Shabbat 128b.
89. M. Semahot 1:1-2; M. Shabbat 23:5 and B. Shabbat 151b; B. Sanhedrin 78a; M.T. Laws of Murder 2:7; S.A. Yoreh De'ah 339:2, and the comments of the Shaikh and Rama there. The prohibition of murder, though, as in the sixth of the Ten Commandments, does not interdict all killing of humans. On the contrary, Judaism requires self-defense, even to the extent of killing one's attacker, both for individuals (Exodus 22:1; B. Berakhot 58a; B. Yoma 85b; B. Sanhedrin 72a) and for communities (as in war) (Deuteronomy 20-21; M. Sofah 8:7 [44b]). See Dorff, Time for War.
90. This includes even inanimate property that "belongs" to us, for God is the ultimate owner. Cf. Deuteronomy 20:19; B. Bava Kamma 8:6, 7; B. Bava Kamma 92a, 93a; S.A. Hoshen Mishpat 420:1, 31.
91. Cf. RaN, B. Nedairim 40a. The Talmud records such prayers: B. Ketubbot 104a, B. Bava Meziza 84a, and B. Ta'aniit 23a. Note that this is not a form of passive euthanasia, for there people refrain from acting, but here God is asked to act.
92. For a discussion of the methodological issues involved in deriving legal guidance from such stories, see the articles by David Ellenson, Louis Newman, Elliot Dorff, and Aaron Mackler in Dorff and Newman, Contemporary Jewish Ethics, 292-47 and 255-57, n. 22.
93. B. Yoma 85a; Pirke de-Rabbi Eliezer, chap. 52; Yalkut Shim'on, "Lekh Lekha," no. 72.
94. Cf. Rashi on B. Yoma 85a; Rabbi Tzvi Ashkenazi, Hakham Tzvi, no. 77; Rabbi Moses Sofer, Teshuvot Hatam Sofer. Yoreh De'ah, no. 338.
96. Bleich, Judaism and Healing, 141-42.
97. Jakobovits, Jewish Medical Ethics, 124 and n. 46; Reisner, "Halakhic Ethic," esp. 56-62 [in Mackler, Life and Death, 245-53].
100. B. Sanhedrin 63a.
102. Thus the Talmud specifically says, "We do not worry about mere hours of life" (B. Avodah Zarah 27b). The Talmud also says, however, that we may desecrate the Sabbath even if the chances are that it will only save mere hours of life (B. Yoma 85a). The latter source has led some Orthodox rabbis to insist in medical situations that every moment of life is holy and that therefore every medical therapy must be used to save even moments of life; see, for example, Bleich, Judaism and Healing, 118-19, 134-45. The only exception is when a person is a goses, which Rabbi Bleich defines as within seventy-two hours of death, at which time passive, but not active, euthanasia may be practiced. He then uses the source in Avodah Zarah only to permit hazardous therapies that may hasten death if they do not succeed in lengthening life. Rabbi Bleich's position is not, however, necessitated by the sources. On the contrary, they specifically allow us—or, on some readings, command us—not to inhibit the process of dying when we can no longer cure, even long before seventy-two hours before death, however that is predicted.
103. Tosafot, B. Avodah Zarah 27b, s.v. lehayyoi sha'ah lo hyshenah. See Dorff, Matters of Life and Death, 202-208, or Dorff, "Jewish Approach," 15-17 and 43, n. 22 [in Mackler, Life and Death, 311-14]. For a contrasting interpretation of this source, see Reisner, "Halakhic Ethic," 56-57 and 72, n. 21 [in Mackler, Life and Death, 245-47 and 255-57, n. 22].
104. Rabbi Reisner does not accept this “double effect” argument, but he would agree that pain should be alleviated as much as possible up to, but not including, the dosage that would have the inevitable effect of hastening the person’s death, even if not intended for that purpose. See Reisner, "Halakhic Ethic," 66 and 83-85, notes 50-52 [in Mackler, Life and Death, 269-70 and 283-86, notes 12-14]; and see, in contrast, Dorff, Matters of Life and Death, 185-86, 218-19, and 379, n. 76; Dorff, "Jewish Approach," 17-19 and 43-45, notes 24-27 [in Mackler, Life and Death, 314-16 and 328-330, notes 7-10]. See also Rabbi Reisner’s summary of the differences between the Dorff and Reisner positions, in Reisner, "Ma'i Beina'iyhu."
105. B. Sanhedrin 74a-b.
106. B. Sanhedrin 73a.
108. Cf. Jakobovits, Jewish Medical Ethics, 150, 278-283, and, more generally, 132-152. A thorough discussion...
of the history of Jewish attitudes toward autopsies and dissection against their non-Jewish background appears at 132–152. The Chief Rabbinate’s ruling and the Israeli Anatomy and Pathology Act of 1953 are cited at 150, and Rabbi Jakobovits’ own opinion can be found in 278–283.

109. Bleich, Judaism and Healing, chap. 27
110. Quoted in Jakobovits, Jewish Medical Ethics, 150.
111. Klein, Responsa, 41.
112. Permission of the donor or his family must be procured so that the transplant does not constitute a theft, according to Chief Rabbi Unterman’s responsum in Goldman, Judaism Confronts, 226. Feldman and Rosner, Compendium, 88, say that the family’s permission is only advisable in Jewish law, but it is mandatory in American law; that, however, would make it religiously required of American Jews as well under the Jewish legal principle of “the law of the land is the law.” See note 28 above. Cf. also Klein, Responsa, 40–41.

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Introduction to the series

Religious beliefs provide meaning for people confronting illness and seeking health, particularly during times of crisis. Increasingly, healthcare workers face the challenge of providing appropriate care and services to people of different religious backgrounds. Unfortunately, many healthcare workers are unfamiliar with the religious beliefs and moral positions of traditions other than their own. This booklet is one of a series that aims to provide accessible and practical information about the values and beliefs of different religious traditions. It should assist nurses, physicians, chaplains, social workers, and administrators in their decision making and care giving. It can also serve as a reference for believers who desire to learn more about their own traditions.

Each booklet gives an introduction to the history of the tradition, including its perspectives on health and illness. Each also covers the tradition’s positions on a variety of clinical issues, with attention to the points at which moral dilemmas often arise in the clinical setting. Finally, each booklet offers information on special concerns relevant to the particular tradition.

The editors have tried to be succinct, objective, and informative. Wherever possible, we have included the tradition’s positions as reflected in official statements by a governing or other formal body, or by reference to positions formulated by authorities within the tradition. Bear in mind that within any religious tradition, there may be more than one denomination or sect that holds views in opposition to mainstream positions, or groups that maintain different emphases.

The editors also recognize that the beliefs and values of individuals within a tradition may vary from the so-called official positions of their tradition. In fact, some traditions leave moral decisions about clinical issues to individual conscience. We would therefore caution the reader against generalizing too readily.

The guidelines in these booklets should not substitute for discussion of patients’ own religious views on clinical issues. Rather, they should be used to supplement information coming directly from patients and families, and used as a primary source only when such firsthand information is not available.

We hope that these booklets will help practitioners see that religious backgrounds and beliefs play a part in the way patients deal with pain, illness, and the decisions that arise in the course of treatment. Greater understanding of religious traditions on the part of care providers, we believe, will increase the quality of care received by the patient.