Jewish Law (*Halachah*) and Medical Decision Making: Helping Rabbis and Doctors "LEARN" to Communicate Effectively

Rabbi Jay Yaacov Schwartz, LMSW, Toby Weiss, MSOD, Paulina Kim, MD, MPH, CHES, and Rabbi Charles Rudansky

A seriously ill Orthodox Jewish patient in a hospital unit takes a dramatic turn for the worse. The patient's son, Mr. Ploni, is approached by his father's doctor who urges him to sign a "Do Not Resuscitate" (DNR) order as the patient's official health care proxy. The doctor, with apparent sincerity and compassion, states that in his medical opinion, resuscitating the patient would be futile. The patient's daughter is convinced that the medical practitioners should give up and that her father's condition will most certainly improve. She implores her brother to do everything possible to extend their father's life, in hope of a miracle. At the same time, their mother, the patient's wife, is in tears lamenting over her husband's great suffering and turns to her son to ask "Why should we bother him anymore?"

Mr. Ploni's head is spinning with questions that have no immediate answers. What is the right thing to do? He is torn by the desire to fully follow *halachah* (Jewish law) and yet he is emotionally distraught, not wanting to inflict needless suffering on his father. Doctors are only human. How can they know when a person's time is destined to end? What are the motives that drive doctors' decisions anyway? The doctor intensifies his request of the son to sign a DNR, as time is running out. Mr. Ploni is feeling pressured and unsure of what to do as everything is happening so quickly. He turns his tear-filled eyes heavenward: "*Ribono Shel Olam* (Master of the World) guide me in what to do..."

When learning that a loved one has a life threatening or terminal disease, we often feel great confusion, anxiety and fear. The lack of preparation for this type of news can be immobilizing and often throws normal life into disarray. When we do not know how to proceed and are unsure of our options, we make potentially poor decisions.

Together with a confusing and emotionally intense situation, western medical ethics and *halachic* considerations often conflict, putting family members and patients in crisis mode. Pressure on families to make quick medical decisions at the time of their family member's rapid or sudden decline can create both confusion and anguish. As a result, interactions between Orthodox Jewish families and doctors at the end-of-life are frequently difficult. What is particularly unfortunate is that often much of the confusion and anguish can be avoided.

Learning when to start planning for a crisis, how to communicate effectively, whom to involve in the

Journal on Jewish Aging
Vol 2, Number 1 Spring 2008

discussion and what Orthodox-friendly services are available can improve the medical decision-making process and its related outcomes.

". . . there is lack of knowledge within the Orthodox community about how to handle medical decisions in the context of a halachically appropriate conclusion."

For the last three years, Metropolitan Jewish Health System (MJHS), through a grant from UJA-Federation of New York, has researched and developed programs that answer the unmet challenges of Orthodox families facing serious illness at end-of-life. Our work has brought together an extraordinary network of leading rabbis from virtually every stream of Orthodoxy, physicians and community leaders from the New York area and beyond. In March 2007, MJHS organized a rabbi-doctor educational series in collaboration with Maimonides Medical Center in Brooklyn. The participants in this program included twelve mid-career doctors and a cross-section of 12 rabbis from various Orthodox Jewish communities in the New York metropolitan area.

In the training session called "Creating Healing Conversations," a communication model was adapted and customized to facilitate a family conference for the purpose of medical decision-making for Orthodox patients. More broadly, in programs that we regularly conduct in synagogues, hospitals and other settings, we find that the problems encountered by the story of Mr. Ploni are sadly almost universal in the Orthodox Jewish world.

More specifically, MJHS research has identified two critical problems in how the Orthodox community interacts with the medical system at the end-of-life. First, there is lack of knowledge within the Orthodox community about how to handle medical decisions in the context of a *halachically* appropriate conclusion. Second, there has been a lack of *halachically* compatible end-of-life and hospice services, leaving Orthodox families to feel they have to choose between *halachah* and access to needed end-of-life support services.

The remainder of this article summarizes what the authors have learned about how to prevent each of the aforementioned problems. These lessons can be incorporated into an action plan that families discuss prior to an emergency. This proactive approach helps bring an element of calm and preparation to an unexpected situation.

HANDLING MEDICAL DECISIONS: TECHNIQUES AND APPROACHES FOR ORTHODOX FAMILIES

Get a rabbi involved. One of the most important lessons learned from MJHS research relates to the role of the rabbi in medical decisions. As assertive medical consumers, Orthodox Jews are typically quick to look for a second opinion on important medical questions – but Orthodox families often need a second opinion from more than just a doctor. Since according to *halachah* great emphasis is placed on the sanctity of life, Orthodox families need the assistance and guidance of a rabbi who has expertise in medical situations, knows how to ask the right questions of the doctor and has knowledge of the patient's wishes. It is important to avoid shortcuts or assumptions about what *halachah* demands – we learned that some families will falsely assume they must pursue aggressive care under *all* circumstances, when *poskim* (rabbis who decide and codify the *halachah* in cases of law where previous authorities are inconclusive) have clarified that each case requires its own *halachic* judgment. Partly because of these misunderstandings, some Orthodox families are afraid to ask questions of a rabbi who has not been involved throughout the patient's illness for fear they will get an answer that may inflict additional suffering on the patient (though in our experience this rarely occurs when the rabbi has been adequately informed of the medical situation by the physician and family).

"Since according to halachah great emphasis is placed on the sanctity of life, Orthodox families need the assistance and guidance of a rabbi who has expertise in medical situations. . ."

The responsibility of the medical decision-making process is a shared one. Collaboration in this process should be encouraged between rabbis, doctors and families. Once a serious or potentially life-threatening diagnosis is determined it is important for the patient or their family to share this information with their rabbi. It is equally important to give permission and encourage the rabbi and physician to speak directly. The importance of bringing the rabbi into the communication process cannot be overstated – it is critical, as the rabbi will know what unique questions to ask the physician. We have repeatedly seen that placing the family member in the role of liaison between the rabbi and doctor is a less than ideal choice. The family member is typically preoccupied with so many caregiving responsibilities and dealing

"The responsibility of the medical decision-making process is a shared one. Collaboration in this process should be encouraged between rabbis, doctors and families."

with the emotions and vulnerabilities of the patient, family and him/herself, that they are unable to relay accurate information. The trickle down effect is that inaccurate information can impact a *halachically* guided medical decision. As there is no single and uniform *halachic* answer to end-of-life decisions, each situation must be evaluated on a case-by-case basis.

Have a family conference. The parties who have a say in the decision-making process must convene prior to anyone making significant medical decisions. Many medical providers call this "a family conference." For a typical Orthodox patient, the meeting should include the patient (if possible), the family member or friend who is the health care proxy (the person designated to make health care decisions if the patient is rendered incapable of making their wishes known), as well as the physician and family rabbi, who may also bring in a respected *posek* (singular for *poskim*) in the area of need. The family conference approach gives key members of the family and caregiving team a chance to share information directly. The goal is to arrive at a medical decision that respects the wishes of the *halachic* patient while considering the recommended medical practices.

The "LEARN Model" (see Fig. 1) is adapted from a classic article for doctors about treating people from different backgrounds. It provides a guide to key objectives for the family meeting.

Any member of the care giving team can initiate a conference, and can make a contribution to the decision-making process. It can be very helpful to have a chaplain or other mediator participate. This person can take a non-judgmental and value neutral stance that respects the religious values of the patient and medical realities of the situation at hand. If an individual important to the conference cannot be physically present, then convening a phone conference is the next best option.

A "live" conversation helps ensure all perspectives are considered. It also helps the rabbi when communicating with the doctor(s), and likewise the rabbi when explaining the *halachic* ruling and its implications to family members.

The family conference must yield an action plan and implementation process. If the medical facts change, the plan must allow for modification at which point a new

The LEARN Model for Orthodox families dealing with medical decisions.

L--Listen and dispel unwarranted assumptions

- Listen to the clinical perspective of professionals without assuming that the health care system will automatically oppose your interest in following *halachah*. Respectfully, state your needs or concerns based on religious values.

E--Evaluate the practical information

- Gain a clear picture of the medical facts, current condition of the patient and impending medical issues or treatment decisions in need of resolution.
- Know if there are any advance directives (DNR) in place and consult your *halachic* advisor (rabbi, *posek*) for guidance.
- Consider any significant emotional/spiritual/mental health factors impacting the patient or family.

A--Ask the right questions to the right people

- Determine who is best positioned to convene a family conference and who should participate. Potential participants - doctors, family *rav* and/or *posek*, chaplaincy staff, social workers, nursing staff, healthcare administrator, family friends, legal representatives or experts.

R--Reach consensus

- Identify a facilitator, skilled in collaborative dialogue and conflict resolution, who can lead a value neutral conversation, with all decision-making parties present.
- Arrange for a telephone conference if all relevant cannot be present.

N--Negotiate a plan

- Define an action plan or system for future decision-making, as changes can occur suddenly and *halachah* demands consideration of the medical issues based on current conditions and always on a case-by-case basis.

Figure 1. From *Metropolitan Jewish Health System Learn Model,* Inspired by – Elois Ann Berlin and William C. Fowkes Jr., The Western Journal of Medicine, 1983.

decision may be needed. A successful first conference will pave the way for future collaboration.

Find a hospice that knows how to work with Orthodox Jews or look into "palliative care." Hospice, as covered by Medicare and many other insurance plans, can be a wonderful service for patients near the end-of-life, however, it can be problematic for Orthodox families. Hospice programs receive an all-inclusive daily fee from the health insurer, in return for which they manage and pay for virtually all medical care (with an emphasis on comfort care), in-home assistance from an aide as needed, medications, medical supplies, spiritual support and other kinds of support.

"The aim of hospice care is to provide the best possible quality-of-life, and to relieve pain and other symptoms during the final days, weeks or months of a person's life, at a time when the underlying disease can no longer be cured."

As an enrollment criterion, a physician must certify that the average life expectancy of the patient is six months or less, should the disease run its normal course. Contrary to popular belief, hospices in the U.S. are not simply an alternative place where imminently dying patients receive their care, rather than remaining in a hospital. Hospices are coordinated programs that assist families in providing care to patients with serious and potentially life-limiting illnesses. The aim of hospice care is to provide the best possible quality-of-life, and to relieve pain and other symptoms during the final days, weeks or months of a person's life, at a time when the underlying disease can no longer be cured. Most hospice care is delivered in the patient's home, whether that home is a private residence or a nursing facility. Each hospice program must also have a provision for inpatient care when it is necessary. This is an extraordinary set of benefits, and it is, therefore, important for Orthodox families to be able to access it.

There are a variety of medical treatments that are not curative but still can prolong life under some circumstances. Issues of withholding medical interventions that can prolong life even briefly are particularly sensitive in *halachah*. True, *halachic* hospice differs from how secular hospices normally practice, primarily in decisions regarding providing or withholding life-prolonging, non-curative treatment.

In MJHS' own hospice, Metropolitan Jewish Hospice, a formal (copyrighted) *Halachic Pathway* is offered to every enrolled Jewish individual. This option serves as a health care proxy that ensures a Jewish person will have all medical decisions made in consultation with the rabbi of the patient's choice. If the patient does not designate a rabbi, he or she may opt to have the *halachic* advisor of the hospice fill that role. Presently, Rabbi Meyer Scheinberg is the *halachic* advisor for Metropolitan Jewish Hospice. This simple intervention incorporated into the enrollment process goes a long way toward achieving comfort and confidence when arriving at a point in the disease process when hospice becomes a recommended option.

It is important to reiterate, however, that in a truly *halachah*-friendly hospice program there is a commitment to bearing the financial burden of continuing treatments

such as intravenous nutrition and hydration when *halachically* mandated.

A number of other issues should be addressed in a *halachic* hospice program. Some or all staff should be trained on traditional Jewish practice, particularly regarding *kashrut*, Sabbath and holiday observance and *tznius* (modesty) laws. Another concern is the full disclosure of a terminal prognosis, which may cause the patient to lose his or her will to live. In a *halachic* hospice setting, staff would be sensitized to this concern when communicating with the family and caregiving team.

In some cases, palliative care treatment is an alternative to hospice. Recently, palliative care medical programs have developed that allow continued treatment that is intended to be curative but offer the same emphasis on symptom relief and psycho-social support as hospice. These programs are offered in many hospitals and are increasingly starting to develop for in-home or office-based treatment. Palliative care is initiated earlier in the course of a serious illness, can be utilized with traditional or curative care, can be accessed in conjunction with other health care providers and does not require a six-month prognosis for admission. It can happen that a patient seeking quality-of-life and symptom management will have palliative care for a prolonged period of time. It is also possible that at some point the patient may advance into a hospice program, should their condition deteriorate to an end-stage process.

This article began with the case, based on the true story of Mr. Ploni. We conclude with a case that occurred in early 2007. The circumstances are similar. The outcome is very different. (Some details were changed to protect patient identity.)

". . . in a truly halachah-friendly hospice program there is a commitment to bearing the financial burden of continuing treatments such as intravenous nutrition and hydration when halachically mandated."

THE CASE OF MRS. ALMONI

Mrs. Almoni is an Orthodox Jew, 85 years old and suffering from advanced Alzheimer's disease, colon cancer and has a feeding tube. She has been residing in the dementia wing of a nursing home for 18 months, and for the past four months has been receiving hospice services in the nursing home. The son is her health care proxy and regularly consults with the medical staff and hospice chaplain after changes in his mother's clinical status, regarding goals of care and advance directives. He realizes that his mother

is declining and will not get better medically. Mrs. Almoni's dementia leads to erratic behavior. She is unable to remain still and at times lies and crawls on the floor, requiring her to wear a helmet and padding. Although the nursing home staff handles these unfortunate requirements in a loving and respectful way, the son feels his children should not see their grandmother in this condition, as she cannot respond to them in a meaningful way and it would cause them distress. The son however, visits on a regular basis.

After several back and forth hospitalizations in a short amount of time for life threatening issues, the hospice medical staff suggested a family meeting to discuss advance directives (e.g. DNR order should she go into cardiac arrest.)

The hospice chaplain, an Orthodox rabbi, suggests a family meeting in order to discuss the DNR and other advance directives. The son states that he would like to speak with his community rabbi. The son contacts him and asks for advice about the signing of a DNR and other advance directives.

"The conversation is carefully and respectfully conducted with all parties aligning with a single goal of determining which medical path halachah would endorse in this critical moment."

The son describes his mother's declining condition and is concerned for her quality-of-life. He does not want his mother to suffer, nor does he want to hasten her death. It is very important to him to follow *halachah*, and he knows this would be his mother's wish as well. What should he do?

Such a decision, the rabbi replies, must involve a *posek* of the highest caliber. He recommends the involvement of his own rabbi, one of America's leading experts in *halachah*.

After speaking with the son, the hospice chaplain decides to convene a teleconference involving all the stakeholders, including the son, the chaplain, the community rabbi, the hospice medical director and the *posek*. The medical director of the hospice is not Jewish but has been trained in the treatment of Orthodox patients and has experience in and respect for their unique requirements. Nevertheless, the doctor has little experience with outside *poskim* and is certainly not aware of the *posek*'s lofty stature. She is quickly impressed at his grasp of complex medical facts and moved by his compassion and his ability to translate technical terms to the patient's family into clearly understood language.

The conversation is carefully and respectfully conducted with all parties aligning with a single goal of

determining which medical path *halachah* would endorse in this critical moment. The *posek* asks many questions regarding the patient's stage of cancer, performed treatments and the patient's degree of suffering. He also wants to know if the patient were resuscitated, would she eventually be able to survive without the respirator. He inquires as to her condition and the level of function and suffering she would experience.

Ultimately a decision is rendered by the *posek*, once he is fully and directly informed by the physician regarding all medical realities. A plan is implemented: not to aggressively revive the patient should her vital energies fail. As the *posek* explains to the patient's son, God is calling for the *neshoma* (soul), which is trying to leave. (The ruling by the *posek* was for this case only and should not be applied to any other case. Every medical case should be considered unique and an Orthodox rabbi with expertise in these issues should be consulted.)

A respectful conversation such as the one described in the case of Mrs. Almoni, leading to an agreed and *halachically* acceptable course of action, and allowing for the highest level of hospice care together with a *halachically*-driven decision-making process, is what Orthodox families expect when faced with a family member's terminal illness.

The model of communication and hospice care described in this article can serve the *halachic* community with an approach that honors the *sanctity of life* and honors the family's wishes.

Metropolitan Jewish Health System contributors include: Eliot Fishman PhD, Vice President for Research and Health Policy; Rabbi Yeruchim Silber, Vice President for Community Affairs; Barbara Hiney, CHPN, MPS, Vice President for Hospice and Palliative Care; and Dr. Beth Popp, Associate Director of Hematology/Oncology, Maimonides Medical Center.

REFERENCE

"Metropolitan Jewish Health System Learn Model." *The Western Journal of Medicine.* 139.6 (1983): 934.