

Dr. Martin Avi Hurwitz z"l Memorial Shuir 2026:  
Whose Life Is It? Autonomy and End of Life Decision Making in Halacha  
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Introduction

Lawmakers in New York State have recently passed legislation legalizing medical aid in dying (MAID). MAID allows physicians to prescribe medications to terminally ill patients, which they can use to end their lives.<sup>1</sup> This new law reflects the trend in the secular society around us towards an increased emphasis on autonomy<sup>2</sup> and a decreased value of life. Additionally, this topic has been a point of confusion regarding the halachic approach to caring for individuals experiencing pain and suffering with limited viable treatment options during end of life scenarios. This article aims to understand under what circumstances one is obligated to seek treatment, whether autonomy exists in the world of halacha, and how we should provide care for people approaching the end of life.

Obligation to treat

The posuk in Shemos states:

שמות כא:יח-יט- וְכִי־יִרְיֹבֶן אָנָשִׁים וְהִכָּה־אִישׁ אֶת־רֵעֵהוּ בְּאֶבֶן א֥וּ בְּאֵגֶרֶף וְלֹא יָמוּת וְנָפַל לְמִשְׁכָּב: אִם־יָקוּם  
וְהִתְהַלֵּךְ בְּחוּץ עַל־מִשְׁעָנָתוֹ וְנִקְהָה הַמַּכָּה בָּרֶק שְׁבִתּוֹ יִתֵּן וְרִפָּא יִרְפָּא:

When two men get in a fight, and one hits the other with a stone or fist but does not kill him, yet he becomes injured, if the injured man is able to get up on his own power, the assailant is obligated to pay for the lost wages and for the cure.

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<sup>1</sup> “NYS Open Legislation | NYSenate.Gov.” *Nysenate.Gov*, 2026,  
<https://www.nysenate.gov/legislation/laws/PBH/A28-F>

<sup>2</sup> Wu, Zhongmin. *Secularization and China's Modernization*. Springer Nature, 2024, pp. 62–67.

The Gemara<sup>3</sup> interprets the phrase “*verapo yerapeh*” from the end of this posuk to mean that physicians are permitted to heal. Tosafos on this Gemara asks the following question: Why did the posuk need to utilize the double formulation of the term “*verapo yerapeh*,” and why would the singular usage of the word *rapo* not be sufficient to derive that a doctor has permission to heal? Tosafos answers this question by explaining that had the posuk written the singular term *rapo*, we might have understood that doctors only have permission to heal regarding incidents in which man is struck by another man. However, if one receives an illness, which is sent from God, then healing such an individual would go against the King's decree. Therefore, the posuk needed to use the double language of *verapo yerapeh* to allow us to derive that a doctor is even permitted to heal someone who has become sick with an illness sent from heaven.

The Ramban in the *Toras Ha'adam*<sup>4</sup> writes, based on the aforementioned Gemara, that the permission given to doctors to heal extends beyond merely allowing them to heal another. Rather, the Ramban understands that in a case of *pikuach nefesh*, one is obligated to seek treatment and may violate any mitzvah in the Torah other than the three cardinal sins;<sup>5</sup> therefore, it is a bona fide obligation for a physician to heal one who is sick. The Ramban's approach is codified in the Shulchan Aruch.<sup>6</sup>

## Role of Autonomy in Halacha

The Gemara in Berachos states:

ברכות ס: - כי מתער אומר: "אלקי, נשמה שנתת בי טהורה. אתה יצרתה בי, אתה נפחתה בי, ואתה משמרה בקרבי, ואתה עתיד ליטלה ממני ולהחזירה בי לעתיד לבא..."

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<sup>3</sup> בבא קמא פה:

<sup>4</sup> שער הסקנה

<sup>5</sup> יומא פב.

<sup>6</sup> יורה דעה סי' שלו:א

When one wakes up in the morning, they make the blessing; praised is God for giving us a pure soul, and God takes our soul away from us and returns it to us in the world to come.

This Gemara shows how our souls do not belong to us; rather, they belong to God. We also find this idea expressed in selichos in the verse: *haneshama loch veha'guf pa'aloch*, the soul is Yours and the body is Your work, again emphasizing this idea that ultimately, our body belongs to God.

The Mishna in Avos<sup>7</sup> states that an act of teshuva or a good deed performed in this world is more valuable than all of *Olam Haba*. Furthermore, the Gemara in Sanhedrin<sup>8</sup> states one who destroys a Jewish life is considered as if he destroyed an entire world, and one who sustains a Jewish life is considered as if he has sustained an entire world. From these sources, it is evident that Chazal had the attitude that a Jewish life is of very high value because the soul has been given to man by God. Therefore, every moment alive in this world is important, and it is incumbent upon us to put forth great effort to preserve life.

The Rambam<sup>9</sup> encapsulates this idea when he writes that Chazal forbade many activities due to their danger. The Rambam continues and explains that if one were to violate this decree and proclaim that they would like to perform these activities, as it only endangers themselves and should not affect others, such a person would receive lashes on the Rabbinic level for not properly protecting themselves.

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<sup>7</sup> אבות ד:יז

<sup>8</sup> סנהדרין לז.

<sup>9</sup> הל' רוצח יא:ד-ה

The Gemara in Avodah Zara<sup>10</sup> recounts the story of Rabbi Chanina ben Teradyon, one of the ten martyrs, and it illustrates the lengths to which Rabbi Chanina ben Teradyon went just to live a few more moments in this world. During a time of persecution, Rabbi Chanina ben Teradyon was seen by the Romans learning Torah, and he was then taken and sentenced to death. The Romans wrapped him in a Torah scroll and bundles of branches, which they lit on fire. They then soaked wool on his heart to slow the process of his death to increase the torture. Rabbi Chanina ben Teradyon's students asked, why do you not open your mouth to allow the flames to enter so that you should die sooner? Rabbi Chanina ben Teradyon responded by telling his students that the one who gave him his soul should take it away rather than causing himself to die sooner.

The simple understanding of this story exemplifies how Rabbi Chanina ben Teradyon endured extreme pain and suffering just to live a few more moments. Tosafos on this Gemara makes a comment in the name of Rabbeinu Tam: If one fears idol worshippers will cause them to violate aveiros through torture to which they are unable to withstand, then it is a mitzvah to harm oneself. This ruling is based on the story from the gemara<sup>11</sup> where 400 children were taken captive, and they sensed they were going to be tortured, so they threw themselves in the sea. Rabbeinu Tam understands that although we are not permitted to do whatever we please with our bodies, in a limited set of circumstances, one would be allowed to use their judgment to determine whether they have the strength to handle the situation, and if not, then end their life.

Rabbi Yaakov Emden provides another example, in the context of risky therapies, in which one is permitted to make an autonomous decision regarding their medical treatment. The

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<sup>10</sup> עבודה זרה יח.

<sup>11</sup> גיטין נז:

Magen Avraham writes<sup>12</sup> that if a physician requires a patient to take a certain medication or undergo a treatment to protect the patient's health, and the patient refuses, the patient is forced to take the medication or undergo the treatment. Rabbi Yaakov Emden writes<sup>13</sup> based on the Magen Avraham that the case in which one is forced to undergo treatment is limited to treatments or therapies proven effective. However, if one does not want to undergo a treatment because its effectiveness is unproven or may cause severe side effects, we do not force a person to do so.

Another example in which we allow a person to make decisions for themselves by taking on extra risk comes from Rabbi Asher Weiss's approach to volunteering to save another person. Rabbi Asher Weiss<sup>14</sup> develops a three-tiered approach, based on a teshuva from the Radvaz,<sup>15</sup> regarding saving one's fellow when risk is involved. When there is minimal to no risk, the rescuer is obligated to save another; when there is a high level of risk, one is forbidden to save one's fellow. However, when the amount of risk is greater than zero, yet still reasonable for one to take upon themselves, like in the case of donating a kidney, we do not obligate one to accept the risk, but the rescuer is permitted to do so. Rabbi Asher Weiss labels this middle category as a *midas chasidus* to be encouraged.

### End of Life Care

The *Sefer Chasidim* writes<sup>16</sup> that one should not slow a person's dying process. For example, if someone is a *goses*, one who is on the doorstep of death, and someone is chopping wood outside which is preventing their soul from leaving, we should stop the person from

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<sup>12</sup> מגן אברהם סי' שכח

<sup>13</sup> מור וקציה סי' שכח

<sup>14</sup> מנחת אשר חלק ג סי' קכג:ב

<sup>15</sup> שו"ת רדב"ז ח"ג סי' תרכז

<sup>16</sup> ספר חסידים סי' תשכ"ג

chopping wood to allow the *goses* to die sooner. Similarly, one should not place salt on a *goses*'s tongue to prevent them from dying. However, if a *goses* claims they are unable to die until being moved from the place they currently lie, one is forbidden from moving the *goses*. This passage from the *Sefer Chasidim* appears ambiguous, as it is difficult to discern the underlying principles on which it operates. This text lists three scenarios and labels two as actions to be performed to allow someone to die sooner, while the third should not be performed.

The *Shiltei Gibborim*<sup>17</sup> explains the *Sefer Chasidim* as follows: performing an action to delay the death of the *goses* is forbidden, as is chopping wood or placing salt on the tongue to prevent death. However, an action that will cause death to occur sooner is forbidden; this is the reason one is not permitted to move a *goses*, causing him to die sooner. The framework the *Shiltei Gibborim* develops is that one is permitted to remove an impediment to death, but it is forbidden to perform an action that will cause a *goses* to die sooner and forbidden to perform an action that will delay the death of a *goses*. This framework from the *Shiltei Gibborim* is quoted by the Rama<sup>18</sup>.

### Contemporary Discussion

Rabbi Moshe Feinstein writes in a *teshuva*<sup>19</sup> that if a person is sick with no treatment available and any effort to treat them would only extend their suffering, one would not be obligated to treat them. However, in this situation, it is strictly forbidden to do anything to cause them to die sooner, as that is murder. Rather, we may allow them to die passively by not treating them but should still manage their pain as long as they remain alive.

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<sup>17</sup> שלטי הגיבורים מועד קטן טז: בדפי הרי"ף

<sup>18</sup> רמ"א יורה דעה סי' שלט

<sup>19</sup> אגרות משה חושן משפט ב:עג

Rabbi J. David Bleich takes a different approach based on his understanding of how to apply the framework of the *Shiltei Gibborim*. Rabbi Bleich explains<sup>20</sup> that the *Shiltei Gibborim* refers strictly to cases involving a *goses*, defined as a patient we are certain will die within three days' time with no possible way to extend life beyond that. However, since nowadays we are often able to extend life for prolonged periods, often beyond three days, we are prohibited from withdrawing care in any case, as virtually no patients will be considered a *goses*.

Rabbi Eliezer Waldenberg, the *Tzitz Eliezer*, has another approach based on his understanding of the *Sefer Chasidim* that differs from the framework of *Shiltei Gibborim*. The *Tzitz Eliezer* writes<sup>21</sup> that we are never permitted to allow a *goses* to die. Therefore, treatment must always be pursued to extend life as long as possible, despite pain and suffering. Additionally, suffering can be beneficial, as he cites multiple sources from Chazal stating that it is a great merit for a person to endure suffering in their life.

Rabbi Hershel Schachter quotes the teshuva from Rabbi Moshe Feinstein and provides a framework for making end-of-life decisions. Rabbi Schachter explains<sup>22</sup> that Rabbi Moshe Feinstein is operating with the framework of the aforementioned *Shiltei Gibborim* cited by the Rama. Rabbi Schachter writes that it is forbidden to extend a life of suffering in cases where it is reasonable to assume that the overwhelming majority of people would rather not be treated in such conditions. He then says that we can employ the concept of *batel da'ato eitzel da'as kol bnei adam*, his individual consideration is nullified against the consideration of the rest of the world, and therefore, we refuse his request to be treated. On the other extreme, if it is reasonable to assume that the overwhelming majority of people in such conditions would like to be treated,

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<sup>20</sup> J. David Bleich. *Bioethical Dilemmas*. Feldheim Publishers, 1998, pp. 76–78.

<sup>21</sup> רמת רחל סי' כט

<sup>22</sup> בעקבי הצאן סי' לד

even if the patient does not want to be treated, we again employ *batel da'ato eitzel da'as kol bnei adam* and force him to receive treatment. However, when no clear assumption could be made, and a reasonable person may decide to continue or terminate treatment, we can leave it to the patient to decide whether they would like to be treated.

### Conclusion

Over the course of this essay, we have shown how the Torah requires us to protect our lives as our *neshamos* belong to God. This means that when one becomes ill and is treatable, they must seek treatment and undergo all recommended therapies. However, in certain circumstances, such as when one takes on risk to save another, when one is captured, or when the effectiveness of a treatment is not fully proven, the individual is given the autonomy to determine the course of action. In end-of-life cases, when the condition is untreatable and further medical intervention will only extend their pain and suffering, we saw that there is debate amongst the poskim<sup>23</sup> whether we permit withdrawal of care, but certainly we would never permit performing any actions that could hasten death.

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<sup>23</sup> One should always consult their posek when making these crucial decisions as there are many details and nuances to be taken into consideration.