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# The Jewish patient and terminal dehydration: A hospice ethical dilemma

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## Abstract

*Culturally competent nursing care regarding the ethical dilemma of terminal dehydration (withholding or withdrawing food and fluid) for the Jewish hospice patient involves applying the ethical principles of justice, autonomy, beneficence, and nonmaleficence to nursing interventions by identifying outcomes that focus on the high value Jews place on life; avoiding stereotyping as to what it means to be Jewish; knowledge of various Jewish traditions surrounding death and dying; and good communication with the patient and his or her family.*

## Introduction

Within the pluralistic milieu of the United States, the hospice industry actively seeks to provide culturally competent care to the terminally ill. Since the "desire to put those people who are different from oneself into categories...leads to depersonalization,"<sup>1</sup> the

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challenge for hospice nurses in caring for the Jewish patient is complex, especially when presented with the issue of terminal dehydration. For the Jewish patient, as part of an intensely life-affirming culture, terminal dehydration presents an ethical dilemma for end-of-life care. The hospice nurse must consider the Jewish historical, cultural, and theological viewpoints as related to the individual patient when assisting the patient and his or her family in making or rejecting this choice.

## Perspectives of the Jewish community

### *In the United States*

Historically, the Jews learned to carry on their traditions simply by living their lives in community, taking care of their own. "It doesn't happen that way anymore. Jewish families are scattered and the community is dispersed."<sup>2</sup> Thus, it is probable to anticipate caring for a Jewish person within the secular hospice industry.

Also, depending upon the particular movement to which a Jew might belong (Orthodox, Conservative, Reform, Reconstructionist), not all adherents of the particular religious communities necessarily stick to all

the rules and customs. "The non-Orthodox Jews...tend to view *halachah* (traditional Jewish law) as a reference point and guide rather than mandate."<sup>2</sup> Then, Neuberger indicates:

Large numbers of Jews everywhere regard themselves as Jewish by peoplehood rather than by religion....In addition, the life-affirming strand in Judaism is very strong, even amongst those who are disaffected from the religion itself...<sup>1</sup>

Dennis relates that, at least in the US, "Jewishness plays perhaps a bigger role in their lives than does religion."<sup>3</sup>

### *Withholding or withdrawing*

Terminal dehydration, *i.e.*, withholding or withdrawing food and fluid as a means to allow a terminally ill patient to die, has particular aversion for the Jewish population because of the value Jews give to life and to food as a life-sustaining, healing, and comforting agent; the fine line between what is life-sustaining versus what is death-prolonging; and, lastly, the conflicting viewpoints within the various Jewish sects.

Because of the historical experience of starvation under impoverished

conditions in Eastern European ghettos and in the concentration camps of Nazi Germany, food is closely associated with the value of life for most Jews.<sup>1</sup> Also, from the time of the “12th century philosopher-physician, Moses Ben Maimon (Maimonides)...chicken soup...has achieved the status of a standing joke among Jews”<sup>3</sup> as a healing agent. “Food [in general] plays a large part in the folk religion of Judaism.”<sup>1</sup>

Secondly, the Torah commands Jews to “choose life.”<sup>4</sup> It may be difficult to ascertain what is life-sustaining versus that which may be death-prolonging. “The Jewish law states that ‘it is permitted to remove the impediment to dying,’” but, on the other hand, it speaks in terms of duty<sup>4</sup> and here there is a duty to live if at all possible.

Diamant gives an example of just how important it is for Jews to sustain life:

The religious principle of preserving human life (*p’kuach nefesh*) is considered a primary mandate. A Jew may break every Jewish law—eat pork, work on the Sabbath—if it might save a life or promote the healing of someone who is ill.<sup>2</sup>

Gordon contrasts the biomedical ethicist who considers intravenous therapy and tube feedings to be forms of medical treatment (medicine) with the Jewish position that is unclear and much debated within and among the various sects. Some rabbinical authorities distinguish between “nutrition and hydration” that is required by all living beings and “medicine.”<sup>4</sup> There is a Jewish saying, stated a rabbinical student, “If you have two Jews debating an issue, you will end up with three opinions!” “Those who take their Jewish heritage seriously, will continue to disagree with one another.”<sup>4</sup>

## The Jewish patient within the US hospice industry

### *Jewish view of death*

“The [Jewish] tradition views death as a part of life and teaches there is ‘a time to die.’”<sup>2</sup> However, when is a person considered to be dying and what does the Jewish law teach about this? Gordon states:

The law concerning a *goses* [dying person], defined by the rabbis as “one who is within three days of death,” is that one may not do anything to shorten the person’s life, even to relieve his or her suffering.<sup>4</sup>

The dilemma of withdrawing food and fluid becomes tied into the limited time frame of three days before death to say that one is a “dying person.” Then, Hall, an attorney, counsels that “more than the emotional reaction to withholding food and fluid...removing [them] will certainly cause death.”<sup>5</sup> In Judaism, there is “less concern with belief than with action or *mitzvah* that means “commandment” or “sacred obligation.”<sup>2</sup> Thus, even for the terminally ill patient who is not yet considered a *goses* by Jewish law, that commandment is to *live* every moment to the fullest, which includes taking in food and fluid naturally or, in many cases, artificially.

Another factor in the dilemma of whether to withhold or withdraw food and fluid is the Jewish “compulsive shying-away from discussion [of death] ...in fact [Jews are] deathly afraid of death.”<sup>6</sup> This denial of death, at times, or unwillingness to discuss death, for whatever reason, may deter the terminally ill person from being identified as a *goses*. Even medical ethicists admit that the ideal of assessing those who are irreversibly dying “is difficult to satisfy...in making judgments of futility,”<sup>7</sup> meaning that the diagnosis

of terminal system failure is not always that clear. The value judgment of what life means for the Jewish patient, and also “what is worth the effort,” may only be judged by the Jewish patient himself or herself and the patient’s family if he or she is unable to make the decision.

### *Mistrust*

It is a fact that many Jews mistrust the US hospice industry, basically on two religious-cultural issues. “First, Jews commonly perceive that hospice is a Christian movement...Second,... American Jewry’s culturally-based anxiety around death issues,”<sup>3</sup> as previously discussed.

For Jews, perceiving hospice as a “Christian” movement might bring thoughts of fear, abandonment, and desecration of the body. *Fear* is because of past experiences with anti-Semitism; *abandonment* is because the Jewish patient and family might not be aware that hospice would allow the *mitzvah* of “*bikkur holim*,”<sup>2</sup> i.e., being present continuously at the bedside of the terminally ill person; *desecration of the body* is because the Jewish laws regarding the care of the body at the time of death and after death are quite explicit and very different from Christian ways. With the perception of hospice as Christian, questions might arise such as, “Would a Christian be sensitive to Jewish ways?” “Would I be able to have my Jewish customs and traditions honored?” This doubt is often present in the Jewish patient and family, even though the general hospice industry is quite transculturally oriented and, for the most part, secular.

Also, the locus of time concept is very different for a terminally ill Jewish patient, as compared to a Christian patient. If Jews perceived that only the Christian concept of looking forward to the afterlife and giving one’s life over to a loving, personal

Lord [God] were maintained in hospice care, the Jew's own time concept of the *here and now* might be thought to be misunderstood or neglected. Although many Jews believe in an afterlife, they do not generally think about what may happen after death, nor do they dwell on it. "A life well-lived, rather than a 'good death' is the primary preoccupation for the Jew of faith."<sup>3</sup> "Judaism's relative indifference to the afterlife is apparent in the [Jewish] laws and customs that surround death."<sup>2</sup>

### *Family and community*

Relationship is a key concept in Jewish spirituality.<sup>3</sup> Important to the terminally ill Jewish patient is the inclusion of family and often those from their Jewish community. Rabbi Dennis comments, using the concept "good death" as an analogy:

A "good death" [for Jews is]... one in which suffering is minimized; their value is affirmed by family, friends and community; they are assured of continued remembrance by the community of faith; and they have confidence that all of their life before that moment had meaning.<sup>3</sup>

### **Transcultural, ethical, and legal considerations**

In the United States, there are underlying "values implicit in ethics and law about dying and death."<sup>5</sup> Nurses see these values reflected in their professional code of ethics, based on the Hippocratic perspective. The number one principle of this perspective says, "do no harm." Transcultural, ethical, and legal considerations regarding terminal dehydration (withholding and withdrawing food and fluid) when caring for the terminally ill Jewish patient within the general hospice industry must include the application of

several ethical principles, namely, justice, autonomy, beneficence, and non-maleficence.

### *Justice*

Justice, referring to the "value of fairness, requires treating all people... without bias."<sup>5</sup> It is vital that hospice personnel be aware that Jews are acutely cognizant of the fact that "[the Holocaust] started with the acceptance of the attitude...that there is such a thing as a life not worthy to be lived."<sup>5</sup> The principle of justice in this case says that such an attitude has no place in hospice toward any patient. The Jewish patient's individual needs and wishes must be considered by hospice personnel in light of this history of "horror" and all this may imply for a Jewish patient in a non-Jewish setting.

### *Autonomy*

The ethical principle of autonomy relates to the "notion of self-determination. The notion of informed consent is the legal extension [of this principle]."<sup>8</sup> Advance directives, an ethical will, and collaboration with the patient and family in developing the nursing care plan are interventions to promote exercising the principle of autonomy for the Jewish patient. Rabbi Gordon counsels Jewish congregants:

You can protect yourself from unwanted medical treatment when you are no longer competent by preparing advance directives....Because no document can anticipate every possible medical event, you should also appoint someone as your *health care proxy* to make choices for you.<sup>4</sup>

Terminally ill Jewish patients should be counseled on the possibility of withholding or withdrawing food and

fluid, so that they can make their wishes known in the advance directive and, more importantly, to their health care proxy to deal with any unexpected circumstances according to the wishes of the terminally ill patient.

An ethical will is a "time-honored Jewish custom of leaving a spiritual legacy to family and friends."<sup>2</sup> The patient desiring to do this, may want help from a rabbi. An ethical will challenges the Jewish patient to name what is most important in their life and how they wish to be remembered.<sup>2</sup> The ethical will is mentioned here because, in the event that food and fluid are withheld or withdrawn, the dying patient may want his or her family to have the written legacy that he or she valued life, but also did not seek to prolong death, according to the Jewish law.

Finally, applying the principle of autonomy entreats the hospice nurse to collaborate with the Jewish patient and his or her family in developing the nursing care plan. Physical care, including the possibility of withholding or withdrawing food and fluid must be discussed; emotional and psychological care, including support systems the patient already enjoys and support systems that hospice provides, if needed or desired; and, lastly, spiritual care, as to whom a Jewish patient may wish to provide this care. For a religious or a nonreligious Jew, inform the patient that hospice provides spiritual care to patients within the boundaries of a concept that embraces the perspective that all patients are spiritual, while some are religious and some are not. Hospice spiritual care is nonproselytizing and refers to a compassionate and empathetic *presence* of one human being to another. This care may provide much comfort to the Jewish patient and family at the time the decision to withhold or withdraw food and fluid is considered.

### *Beneficence and nonmaleficence*

Finally, the principles of beneficence

(doing good) and nonmaleficence (do no harm) may be applied to the care interventions for the Jewish patient and family when making the decision to choose or reject terminal dehydration for end-of-life care. "It is necessary to explore family caregiver perceptions of...terminal dehydration."<sup>8</sup> It may be beneficial to recount the Cox study, where:

Cox distinguished between the acute symptoms accompanying sudden fluid discontinuance in healthy adults from those symptoms that develop gradually during the process of natural death. Dr. Cox's opinion that terminal dehydration is not painful is based on observations of over 4,000 patients encountered.<sup>8</sup>

Also, counsel the patient and family that the hospice perspective of this intervention relates to the motive of keeping the patient comfortable and *not* to "kill the patient." Inform the patient and family of the time when a human body may no longer benefit from what should be beneficial, *i.e.*, food and fluid. Actually, providing food and fluid might burden a patient, who, not being able to metabolize them at life's end, will be subjected to peripheral and pulmonary edema. Zerwekh<sup>9</sup> writes of "benefits" of terminal dehydration at the end of life. The benefits are fewer episodes of incontinence, fewer bouts of vomiting, and tubes or suctioning will not be necessary for decompression. One study she cites also points to a possible "anesthetic effect through blood chemistry changes."<sup>9</sup>

Frequent evaluation and reassessment of the terminally ill Jewish patient are imperative to apply the principle of nonmaleficence. Because life is such an esteemed value for Jews, making these choices regarding end-of-life issues, such as withdrawing or withholding food and fluid, attempting to know when life is not being sustained but death is being prolonged, can be painful for the Jewish family. The hospice nurse must be informed of the clinical picture to relate this information in a sensitive and timely way, so that the Jewish patient (if possible) and family are able to make an informed choice according to their particular Jewish perspective.

### Conclusion

Terminal dehydration may be a viable option for end-of-life care for the Jewish patient, provided that a delineative report of the patient's declining condition is given to the family (or health care proxy) if the patient is unable to speak for himself or herself. The hospice nurse should give detailed clinical signs, if possible, that further intervention, such as providing food or fluid, may actually prolong the dying process, which is against traditional Jewish law, and thus may help the family to make an informed choice. Also, it is imperative for the hospice nurse to be sensitive to the fact that terminal dehydration may present an ethical dilemma when caring for a terminally ill Jewish patient because of the often difficult decision of determining that a Jewish patient is within the three-day period before death to be

considered a dying person (*goses*), according to Jewish law that states an impediment may be removed at this time. Lastly, the hospice nurse must develop a collaborative nursing care plan with supportive measures by using interventions that mark outcomes which apply the ethical principles of justice, autonomy, beneficence, and nonmaleficence.

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