

Jewish and secular medical ethics share themes but diverge on issues such as heroic measures



Lynne Cohen

In brief

AN AMERICAN EXPERT ON JEWISH MEDICAL ETHICS explained the nuances of these rules during a recent address in Ottawa. Although Jewish and secular rules concerning medical ethics often coincide, they diverge in several important areas, including the subject of patient autonomy.

En bref

AU COURS D'UNE CONFÉRENCE RÉCENTE À OTTAWA, un expert américain exposait les nuances de l'éthique médicale juive. Or, s'il arrive souvent que les règles de l'éthique médicale juive et séculière coïncident, elles divergent toutefois dans de nombreux domaines importants, y compris celui de l'autonomie du patient.

Under Jewish law, deliberately shortening the life of a terminally ill patient is equivalent to murder, even if natural death is only moments away. "That is because all human life is of infinite worth," explains Dr. Fred Rosner, an American medical ethicist and author who teaches at New York's Mount Sinai School of Medicine and serves as a consultant to the Medical Research Council of Canada. "Whether a person is 104 years old or 4 hours old, healthy or sick, every moment of life is of infinite value."

In one form or another, this "pro-life" principle is also fundamental to Catholic and secular medical ethics, said Rosner, who addressed 250 people in Ottawa earlier this year. The talk honoured Dr. Eric Stulberg, a 44-year-old Ottawa general practitioner who died of cancer in 1996.

"In fact," he said in an interview, "there are actually very few areas where Jewish and Western medical ethics clash — they are comparable in many more ways than they are not." When there is disagreement, however, "it is very distinct and clear." For example, he noted that current trends and political pressure to legalize euthanasia and assisted suicide is driving a wedge between religious and secular thinking on end-of-life issues.

Rosner, a hematologist, said one of the earliest recorded instances of euthanasia appeared in the Book of Samuel, which is also the first source to forbid the act expressly. It describes how, about 3000 years ago, King David ordered the summary execution of a soldier who had put a bleeding and dying King Saul out of his misery.

Later Talmudic writers, who in the 6th century AD codified 2000 years of evolving Jewish oral law, removed any lingering doubt regarding the illegality of euthanasia: "He who closes the eyes of a dying person while the soul is departing is a murderer." The most widely quoted Talmudic commentator, Rabbi Shlomo Yitchaki, explained in the 11th century AD that even the lightest unnecessary touch to the eyes of a dying person may hasten death, and therefore is forbidden.

Moses Maimonides, the 12th-century Jewish physician who was probably the world's leading medical authority at the time, wrote the first complete code of Jewish law. In roughly 1000 chapters, it summarized the entire 63-tractate Tal-

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mud, as well as Torah law and other biblical sources. Rosner, who is well known for translating Maimonides' work into English, noted that this medieval doctor emphasized the prohibition against euthanasia. In his 1986 book *Modern Medicine and Jewish Ethics* (Yeshiva University Press, New York) Rosner quoted Maimonides: "One who is in a dying condition is regarded as a living person in all respects. It is not permitted to bind his jaws, to stop up the organs of the lower extremities, or to place metallic or cooling vessels upon his naval in order to prevent swelling."

At the bedside today, the conflict between Jewish and Western ethics arises in decisions involving the use of life-support measures. "In secular and Catholic ethics," explained Rosner, "there is no difference between withdrawing and withholding a treatment, such as pulling out or putting in a feeding tube — both acts are morally equivalent. In Jewish ethics, not starting a feeding tube is sometimes appropriate. However, pulling one out is never appropriate because you are actively doing something that will shorten life, which is never allowed in Jewish law."

At times, said Rosner, it is morally correct to withhold treatment and let nature take its course by not inserting a feeding tube or not starting a respirator if there is no hope of recovery. In fact, under Jewish ethical rules doctors are not permitted to put impediments in the way of death. "Excessive noise or jostling can be hindrances to death, and should never be allowed," he said.

Unlike Roman Catholic and Western medical ethics, Jewish law obligates adherents to employ a high degree of heroic measures to save a life. "Even if it costs \$1 million and your family will be impoverished, Judaism requires that you use the money and worry about [finances] when you are well," said Rosner.

However, there are limits. "You are not going to dialyse a 105-year-old patient whose kidneys have started to fail as part of the dying process."

Although there is an assumption in secular medical

ethics that patients have almost absolute autonomy over their bodies, under Jewish law patients can only rarely refuse treatment and are forbidden from committing suicide. "In Jewish law, patients can refuse experimental treatment but not standard therapy," said Rosner. "This is because God is the owner of our bodies, which we are therefore obligated to protect. People must seek healing — they have no authority to harm themselves."

When an ethical conflict arises, doctors who adhere to Jewish rules may choose to consult a knowledgeable rabbi for a ruling. If the ruling conflicts with the civil law the latter always prevails, and the doctor must refer the patient to another competent physician who does not feel bound by rabbinic authority.

Because of the universal applicability of most Jewish medical ethics, all doctors follow the majority of them without acknowledging it. However, the number of Jewish doctors who purposefully adhere to

Jewish law, which includes studying the centuries of case law in the Talmud and other sources, is small. "I don't know how many of us there are in Canada," said Dr. Paul Claman, an Ottawa gynecologist and 1 of only 3 or 4 physicians in that city who is a conscious adherent. "There are certainly many more in Toronto, Montreal and New York, but the number is still relatively small."

Dr. David Ginsburg, a Kingston medical oncologist who attended the lecture, said that even though he is Jewish and interested in Jewish medical ethics — he has read most of Rosner's 6 texts on the subject — he does not consciously follow Jewish law. "I am not guided by what the Torah has to say about medical practice," he said, "but I certainly don't think Jewish medical ethics are archaic."

Claman, who also attended Rosner's Ottawa lecture, explained that consciously following Jewish medical ethics is quite easy. "Jewish law is very practical. God gave humans the Torah for living in this world, and the system of Jewish law that has evolved was developed by people for people." ?



Dr. Fred Rosner: Jewish rules include some "distinct and clear" disagreements with Western medical ethics