March 21, 2021

College of Physicians and Surgeons of Ontario
via email

To Whom It May Concern:

On behalf of the Toronto Board of Rabbis, we want to share a statement on MAiD with you and your membership, having heard from several physicians in the Jewish community about the concerns they have regarding the current CPSO policy on MAiD. This statement also echoes the sentiments of the TBR and its membership on this very important issue.

We hope that CPSO will carefully read the statement which was researched and written by our colleague.

This statement has also been affirmed by the members of the TBR Executive on behalf of our membership.

If you have any comments or questions, feel free to contact us since this is a matter of vital importance to us, our rabbinic colleagues and the members of the Jewish community.
In the field of medical ethics, four principles guide decision making on matters of ethical import. They are: autonomy, beneficence, nonmaleficence and justice.

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<th><strong>Principlist Biomedical Ethics</strong></th>
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- The four principles are meant to be used in concert with each other and not in isolation. To use them one aims to uphold ALL of the principles for any issue. If one or more are violated, the violation needs to be minimal. Additionally, there is no hierarchy of principles—whichever principle is most important (or which two or three) is dependent on the context of the dilemma.

- Principlist moral theory can be problematic in that there is no guidance for proceeding when the four principles cannot be balanced (or upheld). It also considers ONLY the four principles, although there are many other principles, considerations, and values to be considered and weighed into decision making in most ethical dilemmas.

- In western nations, such as USA, autonomy tends to have a higher emphasis than it may in other places.

**Autonomy:** In secular ethics, personal autonomy means that an individual has the right to make unlimited choices about his/her body, having complete independence of action. Locus of authority rests within the individual. Jewish religious law and ethics, however, understands that humans are made in the image of God (Genesis 1:27) and as such are accountable to their Creator for their actions. This means that autonomy is limited to those actions which sustain and maintain human life and dignity.¹ Locus of authority is outside the individual and rests with God. From the Jewish perspective, life is a gift from God and we have an obligation to preserve that life, be its stewards, and not engage in self-destructive behaviors which will bring about its demise.² Rabbi Dr. Shlomo Minkowitz, MD writes: “It is an established principle in Jewish thought that our bodies do not belong to us. Not only is a physician obligated to heal, but the patient is obligated to seek healing, to the extent that refusing life-saving treatment has been morally equated with suicide.”³ Thus, medical doctors, in Jewish law and ethics, are obligated to do all they can to bring healing ⁴ and actions that do not preserve life—and, in fact, actively end it—are considered murder.⁵ Thus, a Jewish medical doctor who considers him-/herself bound by Jewish law and ethics could not and would not participate in an act of MAiD as such an act is morally reprehensible and forbidden by Judaism as an act of murder (Exodus 20:13). Not only is a religiously

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⁵ *Issur veHeter*, Din Yom Hakippurim #5.
observant Jewish doctor prohibited from engaging in an act of MAiD, even making a referral to another doctor to do so is prohibited as an act aiding and abetting murder.6 In Judaism, personal autonomy is circumscribed by the sanctity of life and the obligation to save life rather than destroy it.7

**Beneficence:** This is the obligation to do what is beneficial to the patient that involves positive steps to help and not merely avoid doing harm. From the discussion above, it is clear that actively engaging in an activity causing the end of a life, from the Jewish legal and ethical perspective, is not considered beneficial to a patient. Indeed, saving a life supersedes all other Jewish commands.8 Even when a patient is suffering, other options exist that address this issue without the need to resort to MAiD. Palliative care, hospice and even palliative sedation are acceptable alternatives, but engaging directly in MAiD is not.9

**Nonmaleficence:** Causing death is the very definition of maleficence and contrary to the Hippocratic Oath. Nonmaleficence is the obligation to inflict no harm on other persons. In Judaism, causing the death of another person is inflicting harm and Jews are commanded not to murder others.10

**Justice:** In the context of medical ethics, this refers to health equity and access to medical care. The concern here, from a Jewish legal and ethical perspective, is whether or not the decision to offer MAiD comes about, in whole or in part, as a means to reduce medical care costs for the province and country. It is well known that the cost of geriatric long term and nursing home care, ICU and complex continuing and chronic care can be expensive; however, palliative and hospice care are far more cost effective without proactively causing the death of another. Palliative and hospice care also address issues of suffering so that patients can “die with dignity” and not suffer an ignominious end. As this alternative exists and is currently underfunded and under-available, Judaism would advocate for investment in that kind of care in lieu of calling on Jewish medical doctors to engage in what it considers a heinous, Jewishly illegal and unethical act.

While not a guiding principle of medical ethics, conscientious objection by physicians must also be considered because it can lead to the moral injury of the physician and impede the physician’s ability to continue practicing medicine. A moral injury can occur in response to acting or witnessing behaviors that go against an individual’s values and moral beliefs.11 A shattered value system can lead to a shattered professional and personal life:

In order for moral injury to occur, the individual must feel like a transgression occurred and that they or someone else crossed a line with respect to their moral beliefs. Guilt, shame, disgust and anger are some of the hallmark reactions of moral injury .... Guilt involves feeling distress and remorse regarding the morally injurious event (e.g., "I did something bad."). Shame is when the belief about the event generalizes to the whole self (e.g., "I am bad because of what I did."). Disgust may occur as a response to memories of an act of perpetration, and anger may occur in response to a loss or

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7 Mishnah, *Sanhedrin* 4:5.
8 Babylonian Talmud, *Yoma* 84b based on Leviticus 18:5, Ezekiel 20:11.
feeling betrayed. Another hallmark reaction to moral injury is an inability to self-forgive, and consequently engaging in self-sabotaging behaviors (e.g., feeling link [sic!] you don't deserve to succeed at work or relationships). Forcing a Jewish medical doctor to perform MAiD or be involved in MAiD in any way against their religious beliefs can lead to moral injury because it is so contrary to their value system. This is a traumatic experience that can lead to PTSD.

Conscientious Objection: Jewish law and ethics place the prohibition against taking part in another person’s forbidden action under the category of the biblical prohibition against placing a stumbling block before the blind (Leviticus 19:14). They see two fundamental prohibitions that take “blindness” more metaphorically: (1) This verse prohibits giving bad advice to a person who is “blind” in a certain matter or to the consequences of that advice (i.e., informational blindness); and (2) The verse also prohibits giving someone the means, causing or facilitating an opportunity for them to stumble morally by transgressing the Torah. The bulk of Jewish legal commentators focus primarily on this second, more expansive prohibition, which leads to much concern in Jewish law about the ramifications of one’s actions and hence the results-based categorization of conscientious objection in Jewish legal sources. Jewish law and ethics prohibit one from aiding someone in committing a sin under a category known as “mesaye’a” or “assisting” the sin of another.

In conclusion, given the Jewish legal and ethical positions on MAiD vis-à-vis the principles of medical ethics, and the moral injury it can cause physicians forced to act against their deeply held values and convictions, CPSO should allow those opposed to engaging in MAiD to conscientiously object to MAiD or referral for MAiD without repercussion or penalty.

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12 Ibid.
13 Ibid.
14 Torat Kohanim 2:14.
15 Babylonian Talmud, Avodah Zarah 6b.
16 Tosafot, Shabbat 3a. s.v, “Bava” and others.