

STOP THE WORLD I WANT TO GET OFF

EUTHANASIA IN ISRAEL

By: Advocate Shavit Ben-Chorin

BACKGROUND

Now that reaching the age of 120 is increasingly possible, many of us are beginning to wonder: what happens if I don't want to? What happens if my condition is diagnosed as chronic or terminal and both my family and I are suffering?

How can I maximize my quality of life and minimize pain?

While many elders take advantage of Israel's Enduring Power of Attorney to pre-plan their personal, medical and financial affairs, becoming knowledgeable about the laws of euthanasia in Israel is increasingly relevant.

So, let's take a closer look at how these laws affect both you and your family, and how they relate to Advanced Directives and Israel's Enduring Power of Attorney provisions.

EUTHANASIA AS AN OPTION

The question of euthanasia in Israel is complex and has multiple levels: medical, ethical, and moral. An additional element is Jewish religious practice which regards the sanctity of life as cardinal.

Advocates of euthanasia stress a person's right over his or her own body, the right not to suffer and the right to choose between terminating life or living without dignity. The latter might include critical organ failure, physical pain, impaired cognitive function, as well as severe physical and mental distress.

Opponents, on the other hand, stress the sanctity of life and the danger inherent in the decision to end it ("the slippery slope").

EUTHANASIA COMPRISES FOUR TYPES:

- **Active:** Administering of a drug by a third person with the intent of euthanizing

- **Passive:** Withholding treatment/medication
- **Indirect:** Administering a dosage of painkillers that could end life, with the intention of relieving suffering
- **Assisted suicide:** Doctor's assistance with termination of life at the request of the patient

WORLD OVERVIEW

Active euthanasia and assisted suicide are accepted in several western countries, with the issue still in debate elsewhere.

Countries permitting these two courses of action include Switzerland, Belgium, Holland, Canada, Spain, Luxembourg, New Zealand, and some states in the USA and Australia.

Switzerland is the only country that allows a non-citizen patient to terminate his life at the time of his choosing. The organization Dignitas, located in Zurich, recognizes the right of any person to decide on the time and manner to terminate his life. It is important to stress that anyone wishing to do so through Dignitas must be of sound mind since it is an assisted procedure in which the patient independently takes the drug prescribed by a Swiss doctor.

LEGAL STATUS IN ISRAEL

In 2005 Israel passed the Terminally Ill Patient Act. This law regulates the medical care to be provided for a terminal patient and seeks an appropriate balance between the sanctity of life, the patient's personal wishes, and quality of life.

The law is based on the values represented by the State of Israel, as a Jewish and democratic state, and the fundamental principles of morality, ethics, and religion. Furthermore, the law defines the

underlying principle according to which the sole considerations in the case of a terminal patient are the medical condition, personal volition, and level of suffering.

The Terminally Ill Patient Act defines in what instances and under what conditions a person is permitted to make the decision on the medical treatment he finds acceptable, provided that the medical condition has been diagnosed as incurable and that life expectancy will not extend beyond six months even if treatment is provided (these are the parameters defining a "terminal patient").

In 2016 the Knesset rejected an amendment to the law which proposed adding the clause "death by medical prescription." The amendment (which was rejected), also proposed that a terminal patient who is a competent adult be permitted to request that a personal physician provide the prescription for a lethal dosage of an anesthetic drug to be taken unassisted.

WHAT IS ILLEGAL IN ISRAEL?

Euthanasia is illegal in Israel. The Terminally Ill Patient Act does not permit complete freedom of action, although the request of a terminal patient to withhold treatment is generally respected.

Active euthanasia is illegal: i.e. any action intended to cause the death of the patient, or which would probably result in the death of the patient, is illegal.

ASSISTED SUICIDE IS ILLEGAL.

Termination of ongoing treatment: It is against the law to terminate any medical treatment whose termination may cause the death of a patient. It is permissible to withhold renewing an ongoing treatment that was interrupted unintentionally and in a manner that is not against the law. It is permissible not to renew treat-

ment administered by means of periodic medication.

Withholding nutrition: In the case of a terminal patient who is not competent, it is not permissible to withhold fluids or palliative and associated care, even if the patient has specifically requested to terminate the treatment. The patient may request to withhold any kind of artificial nutrition procedures.

WHAT IS PERMITTED IN ISRAEL?

Passive euthanasia does not contravene the law. This means withholding, either by inaction or the termination of a periodic action, any initiative intended to extend life.

Ways in which the medical staff can assist (while continuing to provide palliative care and fluids):

- Withholding periodic treatment, i.e. medical treatment that is administered periodically at regular intervals providing a clear distinction between the end of one cycle of treatment and the beginning of the next.
- Reducing oxygen to 21%, which is equal to the proportion present in the air
- Removal of a ventilation tube following a slight improvement in the patient's breathing
- Refraining from adjusting a ventilator in order to improve performance
- Termination of drug treatment, such as antibiotics
- Withholding the start of new treatments
- Palliative sedation – a medical treatment allowing the attending staff to induce sleep to the point the patient is no longer suffering. Sometimes very deep sleep is required and at other times relatively shallow sleep is sufficient. It should be noted that this is to induce sleep and not to terminate life.

OPTIONS FOR PRIOR LEGAL PLANNING

Israel's Terminal Patient Act stipulates the instances and conditions that permit patients to decide on a treatment, if at all, that they are willing to accept provided that they

have been diagnosed as suffering from an incurable illness and that life expectancy is no more than six months, even with treatment.

The Act provides for advanced planning which takes into account whether, at a future date, the patient is or is not of sound mind. The operative document in the latter case is called **Power of Attorney for Issuing Directives as to the Medical Care of a Terminally-Ill Patient.**

In this case, there are two possible scenarios:

Scenario 1: Terminal patient of sound mind

The Terminally Ill Patient Act broadens the right to refuse or accept treatment by providing the opportunity to stipulate the decision prior to being diagnosed as a terminal patient.

If during the stage defined as "terminal" several of the patient's vital systems fail and even with medical treatment life expectancy does not exceed two weeks, any form of resuscitation, artificial respiration or artificial nutrition may be withheld.

Scenario 2: Terminal patient not of sound mind

The Terminally Ill Patient Act allows a person to prepare in advance for the possibility that he may not be of sound mind by submitting, in advance, a designated document issued by the Ministry of Health known as a **Power of Attorney for Issuing Directives as to the Medical Care of a Terminally-Ill Patient.**

This enables the patient to appoint a Trustee, who is authorized to decide on the medical treatment to be provided should they no longer be of sound mind when diagnosed as a terminal patient.

The law also provides a document issued by the Ministry of Health known as **Advanced Directives as to Future Medical Care Of a Terminally-Ill Patient.** This document includes a long list of treatments that should be provided or withheld in the event they may become relevant. For example, the patient can give a prior instruction to terminate a periodic treatment such as dialysis, chemotherapy,

radiation, if the treatments are intended for an incurable illness.

Regardless of any documentation signed under the terms of the Terminally Ill Patient Act, it is also advisable to prepare a Durable/Enduring Power of Attorney. This is a legal document enabling a person to plan ahead for the possibility of no longer being competent to make decisions independently (not of sound mind), by giving power of attorney to one or more trustee's, to handle both medical and property issues.

If and when advanced directives become relevant, they can be accessed from a Ministry of Health database, while provisions to activate a **Durable/Enduring Power of Attorney** are handled by a previously designated Trustee.

It is important to emphasize that the Ministry of Health documents for a terminal patient address solely the issue of a person who has been diagnosed as a terminal patient (i.e. life expectancy does not exceed six months). This is the reason to prepare a Durable/Enduring Power of Attorney, which grants power of attorney to someone who will make medical decisions in cases that do not fall within the domain of the Terminally Ill Patient Act and/or cover non-medical situations.

ABOUT THE AUTHOR

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