

LESSON



EXPERIMENTAL TREATMENTS

When emerging treatments offer hope of recovery, when is the risk justified? Discover the Jewish ethics of risking your life in the hope of extending your long-term prospects.

M'KOR CHAIM
Rebecca Schisler, oil on
canvas, 2014, Connecticut

I. INTRODUCTION

Welcome to *Decisions of Fate*, a four-part course that will explore uniquely Jewish perspectives on areas of medical ethics with broad relevance to the general public.

The first of these studies examines Judaism's general approach toward health and healing. It then investigates how these principles can guide us through difficult dilemmas regarding the degree of risk we may or may not accept in pursuit of healing.



CASE STUDY

Vibhav Rangarajan, "The 'Cruel Joke' of Compassionate Use and Right to Try: Pharma Companies Don't Have to Comply," *Stat News*, June 2018

Radha's birth went perfectly. She was a healthy baby and met all of her developmental milestones—until it came to walking. My wife, Sonal, a pediatric gastroenterologist, recognized this and we had Radha evaluated by several specialists. None thought anything was physically wrong and indicated that she would learn to walk with the help of some physical therapy sessions.

They initially helped. Then Radha's progress slowed. Just after her second birthday, additional testing, including an MRI of her brain and spine followed by a genetic analysis, revealed that our daughter had metachromatic leukodystrophy. . . .

Children with the most severe form of metachromatic leukodystrophy develop

symptoms like trouble walking or poor muscle tone before the age of 30 months. Once symptoms appear, the prognosis is grim. Radha's health will decline rapidly over the next three to six months. She will soon lose her ability to move, speak, see, and eat, and will be prone to seizures. The disease will then plateau for several years, leaving her in a vegetative state and unable to communicate. Our only hope is that she'll always understand us when we tell her we love her, but we may never know. Most children with metachromatic leukodystrophy don't survive beyond their 8th birthday.

Because we live in an era of rapid genomic innovation, gene-editing technologies such as CRISPR, proteomics, and rational drug design, I assumed that a disease caused by a single-enzyme deficiency was treatable. In my search for ways to help my daughter, I came across enzyme replacement therapies being developed for a number of conditions, including metachromatic leukodystrophy.

Shire Pharmaceuticals has developed a therapy for the disease and has even found a way to deliver it across the blood-brain barrier, which is no mean feat. The company has even completed a multicenter Phase 1/2 trial of the drug, called SHP-611 (also known as HGT-1110) in Europe, with what appear to be promising results. There was enough of a signal of therapeutic benefit from this trial

to move forward with another one, though it appears to be several months to a year away.

Children with metachromatic leukodystrophy who were involved in the original trial have access to the drug as part of an extension of the trial. Radha developed the disease too late to take part in the first trial, and too soon to join the second one (if and when it happens).

Even so, that discovery gave me hope. It meant that Radha should qualify for what the Food and Drug Administration calls its expanded access program, also known as compassionate use. It governs the use of an investigational medicine that has not been approved by the FDA outside of a clinical trial.

Here's how it is supposed to work. A physician caring for a patient with a terminal illness who has exhausted all other treatment options and isn't eligible for a clinical trial appeals to the pharmaceutical company to provide an investigational drug that has undergone at least a Phase 1 trial, which studies the safety of a drug. If the pharmaceutical company agrees, the treating physician applies to the FDA for approval for expanded access to the investigational drug.

Thanks to policy changes at the FDA, it has become easier than ever for physicians to seek access to investigational drugs. The application form has been significantly simplified and now only one member of a facility's



institutional review board needs to sign off on the petition. The FDA approves more than 95 percent of such requests, and does so swiftly, usually in a matter of a few days.

Radha's physicians followed Shire's protocol for applying for compassionate use exactly as directed on the company's website. Within a day or two, their request was denied, without any legitimate medical reason given. . . .

All of our efforts to get answers from Shire have been repeatedly rebuffed with vague, unsatisfying responses, leaving me to wonder why the company is denying my daughter's only hope. In fact, Shire has refused to correspond with me directly, and has instructed me to direct questions to it via my daughter's treating physicians.

Large pharmaceutical companies are notoriously risk averse when it comes to expanding access to medications that are still in the testing phase. Many refuse to grant access to investigational drugs outside of clinical trials, and efforts to lobby them to release the medication as part of compassionate use are often rebuffed.

One fear they have is that an adverse event, like an injury or death—even if it is not directly due to the medication—will derail a company's ability to push a drug forward for FDA approval, something they argue would ultimately undermine efforts to develop drugs that can help other families.

In response to this fear, FDA Commissioner Scott Gottlieb unveiled an updated policy on reporting adverse events that occur during compassionate use. It now requires reporting “only if there is evidence to suggest a causal relationship between the drug and the adverse event.” . . .

The push for a federal right-to-try process culminated this week with President Trump signing a new law in a ceremony surrounded by patients with life-threatening illnesses and their families. In theory, this law will let patients and physicians bypass the FDA and go directly to pharmaceutical companies for access to investigational therapies that have undergone early testing. But it doesn’t require pharmaceutical companies to accede to these requests. . . .

Much of what we do in medicine is based on analyses of benefits and risks. Shire has produced a drug that in early testing demonstrated safety with enough benefit to push forward follow-up trials. In Radha’s case, the potential benefits of SHP-611 clearly outweigh the risks, but only if we get the drug to her soon, before her condition deteriorates further.

Compassionate use and right-to-try are billed as ways to give hope to patients who have exhausted all other options. From Radha’s perspective, they are nothing more than a cruel joke, dangling a potential lifesaving therapy just out of her reach.



EXERCISE 1.1

1. Do you consider it appropriate for individuals suffering from life-threatening illnesses to be granted access to experimental drugs that have not yet been approved as safe and effective? If yes, under what conditions?

2. Are there circumstances under which you believe drug companies should be required to provide access?



Can a doctor ever say no?
Talmudic sage **Rabbi Adin**
Even-Israel Steinsaltz
offers insight:
myjli.com/decisions

**FOUR JEWISH DOCTORS FROM
ADRIANOPOLE, TURKEY**

Unknown artist: German
school, watercolor on paper,
c. 1600 (private collection)



II. HEALTHY OBLIGATION

The primary dilemma raised by the above case of Radha Rangarajan is this: How far should we go in our attempt to find healing? What degree of risk is acceptable in the pursuit of this goal? In order to appreciate Judaism's response to this dilemma, it is necessary to first probe the roots, in Jewish tradition, of the imperative to heal and the obligation to avoid danger.



TEXT 1

Caution

Maimonides, *Mishneh Torah*,
Laws of the Murderer and Guarding Life 11:4

כָּל מְכַשׁוּל שֶׁיֵּשׁ בּוֹ סְכָנָת נַפְשׁוֹת, מִצְוֵת עֲשֶׂה
לְהִסְרֵוֹ וּלְהַשְׁמִיר מִמֶּנּוּ וּלְהִזָּהֵר בְּדַבָּר יָפָה יָפָה,
שֶׁנֶּאֱמָר: "הַשְׁמֹר לָךְ וּשְׁמֹר נַפְשְׁךָ" (דְּבָרִים ד, ט).

It is a positive mitzvah to remove any obstacle that might pose a danger to life and to be extremely careful regarding these matters, as it is stated, "Be cautious and preserve your life" (DEUTERONOMY 4:9).

**RABBI MOSHE
BEN MAIMON
(MAIMONIDES, RAMBAM)
1135–1204**

Halachist, philosopher, author, and physician. Maimonides was born in Córdoba, Spain. After the conquest of Córdoba by the Almohads, he fled Spain and eventually settled in Cairo, Egypt. There, he became the leader of the Jewish community and served as court physician to the vizier of Egypt. He is most noted for authoring the *Mishneh Torah*, an encyclopedic arrangement of Jewish law; and for his philosophical work, *Guide for the Perplexed*. His rulings on Jewish law are integral to the formation of Halachic consensus.



TEXT 2A

The Cost of Injury

Exodus 21:18–19

וְכִי יִרְיֹבֶן אָנָשִׁים, וְהָכָה אִישׁ אֶת רֵעֵהוּ בְּאֶבֶן אוֹ בְּאֹגֶרֶף,
וְלֹא יָמוּת וְנָפַל לְמִשְׁכָּב. אִם יָקוּם וְהִתְהַלֵּךְ בַּחוּץ עַל
מִשְׁעָנָתוֹ, וְנָקָה הַמִּכָּה. רַק שְׁבִיתוֹ יִתֵּן וְרָפָא יִרְפָּא.

If men quarrel, and one strikes the other with a stone or a fist, and the victim does not die but is confined to bed: If the victim subsequently gets up and walks around outside on his staff, the assailant is cleared. He pays only for the victim's involuntary idleness, and must provide for his cure.



THE NEW JEWISH
HOSPITAL, BUILT BY
SALOMON HEINE,
HAMBURG, GERMANY

J. Gray, Hand-colored
engraving; ink on paper, 1841
(Leo Baeck Institute, Center for
Jewish History, New York, N.Y.)



TEXT 2B

Permission to Heal

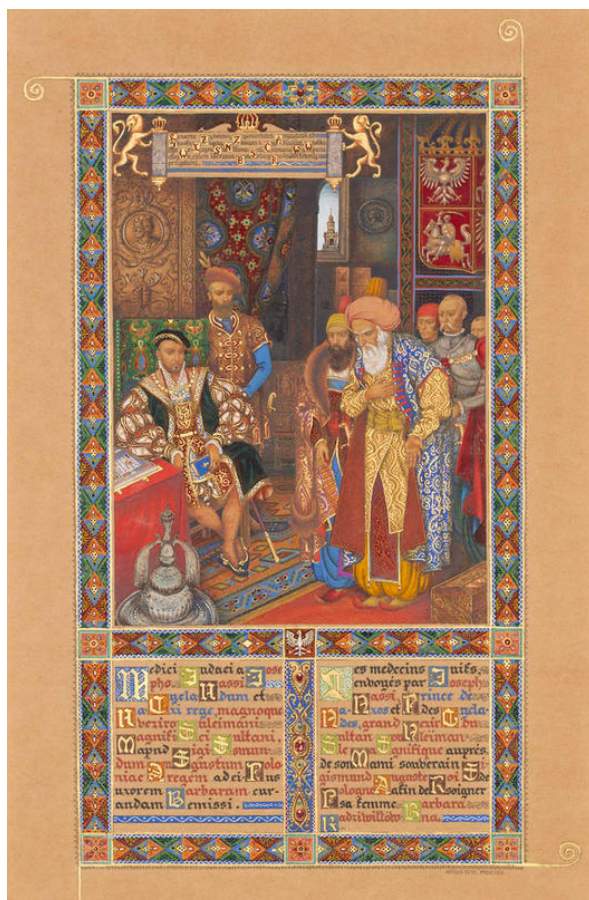
Talmud, Bava Kama 85a

דְּבִי רַבִּי יִשְׁמָעֵאל אוֹמֵר: "וְרֹפֵא יִרְפֵּא",
מִכָּאן שֶׁנִּתְּנָן רְשׁוּת לְרֹפֵא לְרַפְּאוֹת.

The school of Rabbi Yishmael taught, "He must provide for his cure"—this informs us that physicians are granted permission to heal.

BABYLONIAN TALMUD

A literary work of monumental proportions that draws upon the legal, spiritual, intellectual, ethical, and historical traditions of Judaism. The 37 tractates of the Babylonian Talmud contain the teachings of the Jewish sages from the period after the destruction of the 2nd Temple through the 5th century CE. It has served as the primary vehicle for the transmission of the Oral Law and the education of Jews over the centuries; it is the entry point for all subsequent legal, ethical, and theological Jewish scholarship.



PHYSICIANS SENT
TO THE POLISH KING
SIGISMUND BY JOSEPH
NASI, DUKE OF NAXOS,
TO CURE THE QUEEN

Arthur Szyk (1894 [Łódź, Poland]–1951 [New Caanan, Conn., via France and U.K.]), ink and paint on paper, in a style Szyk sometimes emulated: that of medieval and Renaissance illuminated manuscripts, 1927 (The Jewish Museum, New York, N.Y.)



If G-d decided to make someone sick, what's the rationale for going to a human for healing? The **Rebbe** on the doctor's job to help, not give up hope: myjli.com/decisions



TEXT 2C

Even So, Heal

Rashi, ad loc.

וְלֹא אֶמְרִינוּ: רַחֲמָנָא מְחֵי וְאֵיהּוּ מְסִי.

We do not argue, “G-d” has struck;
will the physician then go and heal?”

**RABBI SHLOMO
YITZCHAKI
(RASHI)
1040-1105**

Most noted biblical and Talmudic commentator. Born in Troyes, France, Rashi studied in the famed *yeshivot* of Mainz and Worms. His commentaries on the Pentateuch and the Talmud, which focus on the straightforward meaning of the text, appear in virtually every edition of the Talmud and Bible.



THE HOUSE OF THE BODY
Illustration (artist unknown)
for *Helek Rishon mi-Sefer
Ha-'Olamot—The Book of
Worlds, Part 1*, or *Maaseh
Tuvyah—Toviyah's Work/Deed*
(play on words; a “good deed”
is a *maaseh tov*): a book on
the sciences—particularly
medicine—and theology by
Toviyah (ben Moshe HaKohen)
Kats; engraving, Venice, Italy,
1708. The body's anatomical
organs are shown here as
analogous to the parts of
a house. (Heb 7459.800”,
Houghton Library, Harvard
University, Cambridge, Mass.)

*Throughout this book, “G-d” and “L-rd” are written with a hyphen instead of an “o” (both in our own translations and when quoting others). This is one way we accord reverence to the sacred Divine name. This also reminds us that, even as we seek G-d, He transcends any human effort to describe His reality.

The Importance of Health

The following collection of texts explores Judaism's perspective on the importance of maintaining physical health.

The Study of Health

Talmud, Shabbat 82a

Rav Huna asked his son Raba, "Why do you not go to study from Rav Chisda, whose teachings are highly incisive?"

Raba replied, "Why should I go to him? When I do, he sits me down and teaches me mundane matters unrelated to Torah! He told me: One who goes to the bathroom should avoid straining themselves too much, for the rectum is supported by three muscles, and we must be careful to avoid dislocating them, which would bring the person to danger."

Rav Huna replied, "He deals with matters crucial for human life, and you call them 'mundane matters'! If this is what he teaches, you should most certainly go to him!"

A Tear in the Soul

Rabbi Avraham the Malach, cited in *Hatamim* 7:28

I am recording the words that my father, the Magid of Mezeritch, told to me on the eighteenth of Kislev, 5533 [1772], the day before his passing: "And you, my Avraham . . . it is important not to neglect your body, because a small tear in the body becomes a large tear in the soul."

The Mitzvah of Self-Care

Midrash, *Vayikra Rabah* 34:3

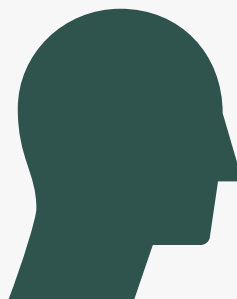
It is stated, "A kind person performs goodness for their own soul" (Proverbs 11:17). This virtue was exemplified by Hillel the Elder.

He was once walking with his students and then branched off in a separate direction. They asked him,

"Master, where are you going?" He replied, "To perform a mitzvah."

"Which mitzvah is that?" they inquired.

"To bathe in the bathhouse," he replied.



"Is that truly a mitzvah?" they asked. "Yes," he explained. "It is similar to the statues of the emperors that have been erected in theatres and circuses—the individual appointed to care for them duly cleans and rinses them, and for this effort, he is rewarded with sustenance and even elevated to be considered one of the kingdom's nobles. Similarly, I was created in the image and likeness of G-d, as it is stated in the Torah, 'In the image of G-d He made the human' (Genesis 9:6). How much more so must I care for my body!"

Healthy Divine Service

Maimonides, *Mishneh Torah*,
Laws of Character 4:1

Maintaining a healthy and wholesome body is a key element of Divine service, for we cannot properly understand or know anything of the Creator while sick. Therefore, we must distance ourselves

from things that harm the body,
and we must proactively

conduct ourselves
in ways that
strengthen it and
promote its health.



The Spiritual Connection

The Rebbe, Rabbi Menachem Mendel
Schneerson, *Igrot Kodesh*, vol. 17, p. 242

Our sages teach that the body's limbs and sinews correspond to the six hundred and thirteen *mitzvot*. It is understood that one whose physical health is lacking can benefit from enhancing the health of their soul. When the soul gains fresh spiritual enthusiasm, it also improves the health of the body and increases the chances of successful medical treatment.



Working with the Body

Rabbi Yisrael Baal Shem Tov,
cited in *Hayom Yom*, 28 Shevat

The Torah commands us, “When you see the donkey of your enemy lying hopelessly under its burden, will you refrain from helping? [No,] you must certainly assist, together with him.”

The Baal Shem Tov revealed the verse's deeper significance:

“When you see the donkey (*chamor*)”—when you reflect deeply on your material side (*chomer*), namely, your corporeal body—you will see that it is “your enemy”. For the body detests the soul's yearning for G-dliness and spirituality. You will also see that it is “lying hopelessly under its burden,” for G-d charged the body with fulfilling the Torah and *mitzvot* to elevate it, but the body is lazy in keeping them.

You might tell yourself, “I will ‘refrain from helping’ my body to fulfill its mission. Instead [I will conquer this enemy]: I will break out of my materialism through harsh asceticism and self-denial.”

But this is not the way to apprehend the light of the Torah. Instead, “You must certainly assist, together with him”—you need to work together with the body, and assist it in attaining spiritual refinement and elevation; certainly do not try to break it with asceticism and the like.



TEXT 3

Cultivating Life

Midrash Temurah, Otzar Hamidrashim, vol. 2, pp. 580–581

מַעֲשֵׂה בְּרַבִּי יִשְׁמָעֵאל וְרַבִּי עֲקִיבָא שֶׁהָיוּ מְהֻלְכִין
 בְּחוּצוֹת יְרוּשָׁלַיִם, וְהָיָה עִמָּהֶם אָדָם אֶחָד.
 פָּגַע בָּהֶם אָדָם חוֹלָה, אָמַר לָהֶם:
 רְבוּתִי! אָמְרוּ לִי בַמָּה אֶתְרַפָּא?
 אָמְרוּ לוֹ: עֲשֵׂה כָּךְ וְכָךְ עַד שֶׁתִּתְרַפָּא.
 אָמַר לָהֶם: וּמִי הִכָּה אוֹתִי?
 אָמְרוּ לוֹ: הַקָּדוֹשׁ בְּרוּךְ הוּא.
 אָמַר לָהֶם: וְאַתֶּם הַכֹּנְסִיתֶם עֲצֻמְכֶם בְּדִבְרֵי שְׁאִינוֹ שְׁלָכֶם!
 הוּא הִכָּה וְאַתֶּם מְרַפְּאִים, אֵינְכֶם עוֹבְרִים עַל רְצוֹנוֹ?
 אָמְרוּ לוֹ: מָה מְלַאכְתָּה?
 אָמַר לָהֶם: עוֹבֵד אֲדָמָה אֲנִי, הֲרִי הַמִּגָּל בְּיָדִי.
 אָמְרוּ לוֹ: מִי בָּרָא אֶת הַפָּרֶם?
 אָמַר לָהֶם: הַקָּדוֹשׁ בְּרוּךְ הוּא.
 אָמְרוּ לוֹ: וְאַתָּה מְכַנֵּס עֲצֻמָּה בְּדִבְרֵי שְׁאִינוֹ שְׁלָהּ!
 הוּא בָּרָא אוֹתוֹ, וְאַתָּה קוֹצֵץ פְּרוֹתָיו מִמֶּנּוּ?
 אָמַר לָהֶם: אֵין אַתֶּם רוֹאִים הַמִּגָּל בְּיָדִי? אֵלּוּלִי אֲנִי יוֹצֵא
 וְחוֹרְשׁוֹ וּמְכַסְּחוֹ וּמַזְבֵּלוֹ וּמְנַכְשׁוֹ, לֹא תַעֲלֶה מֵאוּמָה!
 אָמְרוּ לוֹ: שׁוּטָה שֶׁבַע עוֹלָם! מִיָּמֶיהָ לֹא שָׁמַעְתָּ מָה שֶׁכָּתוּב:
 "אֲנוֹשׁ כָּחָצִיר יָמָיו" (תְּהִלִּים קג, טו), כָּשֶׁם שֶׁהָעֵץ אִם

MIDRASH TEMURAH

Midrash Temurah is a small midrash, attributed to the *tanna'im* Rabbi Yishmael and Rabbi Akiva. It was first published by Rabbi Chaim Yosef David Azulai, who found it in manuscript form, and appended it to the second part of his *Shem Hagedolim*. This midrash is copied in its entirety in the *Sefer Hapardes* (attributed to Rashi's disciples) and also cited by Me'iri (as "*Midrash Temurot*").

אֵינוּ מְנַפֵּשׁ וּמְצַלֵּל וְנִחְרַשׁ אֵינוּ עוֹלָה, וְאִם עָלָה וְלֹא
שָׁתָה מַיִם וְלֹא נִצָּל אֵינוּ חַי וְהוּא מֵת, כִּן הַגּוֹף - הַצֶּבֶל
הוּא הַסֵּם וּמִינֵי רְפוּאָה, וְאִישׁ אֲדָמָה הוּא הָרוּפָא.

When Rabbis Yishmael and Akiva, and
one other individual, strolled the streets
of Jerusalem, they met an ill man.

“Rabbis,” he asked them, “tell me
how I might be cured.”

“Do such and such until you are cured,” they replied.

“Who afflicted me?” he pressed.

“G-d,” they responded.

“You have interfered in an area beyond your
jurisdiction,” the invalid retorted. “G-d
afflicted me, and you advised me how to be
cured. Are you not defying G-d’s will?”

“What is your occupation?”
the rabbis questioned him.

“I am a farmer,” he replied.

“This is my scythe in my hand!”

They pressed further, “Who created the vineyard?”

“G-d,” came the reply.

“You interfere in an area beyond your jurisdiction!” they countered. “G-d created it, and you are cutting its fruits!”

“Do you not see the scythe in my hand?” he rejoined. “If I did not plow, trim, fertilize, and weed, nothing would grow!”

“Foolish man,” returned the rabbis, “have you never heard the verse, ‘As for the human, their days are like grass’ (PSALMS 103:15)? Just as a tree will not sprout without the farmer weeding, fertilizing, and plowing—and after sprouting, it will not live without water and fertilizer, but will die—the same is true of the human body: drugs and medication are its fertilizer, and the doctor is the farmer.”



Samuel ben Zwi Hirsch Dresnitz, illustration from *Birkat ha-Mazon—Grace after Meals*, ink on parchment, Nikolsburg (modern-day Czech Republic), 1725. Detail from a *bentsher*, a book of blessings used at meals. The page that includes this illustration, depicting a vineyard, with the heading *Berachah Acharonah—After-Blessing*, continues with the blessing said specifically after consuming wine or grapes. (Braginsky Collection)



TEXT 4

Thank G-d!

Maimonides, Pesachim 4:10

אם רָעַב אָדָם וּפָנָה אֶל הַלֶּחֶם וְאָכְלוּ, שְׂמֵת־רַפָּא
מֵאוֹתוֹ הַצֶּעַר הַגָּדוֹל בְּלִי סָפֶק, הֲאֵם נֹאמֵר שֶׁהִסִּיר
בְּטַחֲוֹנוֹ מֵה' וְהוּא שׁוֹטִים יֹאמֵר לָהֶם, כִּי כְמוֹ שֶׁאֲנִי
מוֹדֶה לֵּה' בְּעֵת הָאֲכֹל שֶׁהִמְצִיא לִי דָבָר לְהִסִּיר
רָעִבּוֹנִי וּלְהַחְיֹתֵנִי וּלְקַיְּמֵנִי, כִּן נֹדֶה לוֹ עַל שֶׁהִמְצִיא
רְפוּאָה הַמְרַפָּאָה אֶת מַחְלָתִי כְּשֶׁאֶשְׁתַּמֵּשׁ בָּהּ.

If a person is hungry and eats food in order to relieve themselves from that great discomfort, would anyone suggest that they have abandoned their trust in G-d? Only fools would posit such a thing! Rather, just as I thank G-d when I eat—for providing me with something edible that removes my hunger and provides me with life and sustenance—it is similarly appropriate to thank Him for creating the treatment I can use to heal my illness.



Kabbalist **Rabbi Dovber Pinson** on attaining well-being through spiritual and physical balance:
myjli.com/decisions



TEXT 5

Authority Limits

Rabbi Shneur Zalman of Liadi, *Shulchan Aruch HaRav*,
Choshen Mishpat, *Hilchot Nizkei Guf Vanefesh 4*

אָסור לְהַכּוֹת אֶת חֵבְרוֹ, אֶפְלוּ הוּא נוֹתֵן לוֹ
רְשׁוּת לְהַכּוֹתוֹ, כִּי אֵין לְאָדָם רְשׁוּת עַל גּוּפוֹ כָּלֵל
לְהַכּוֹתוֹ, וְלֹא לְבִישׁוֹ וְלֹא לְצַעְרוֹ בְּשׁוּם צַעַר.

It is forbidden to hit another person, even with their consent. For we have absolutely no authority over our bodies to permit that they be struck, denigrated, or pained in any way.

**RABBI SHNEUR
ZALMAN OF LIADI
(ALTER REBBE)
1745-1812**

Chasidic rebbe, Halachic authority, and founder of the Chabad movement. The Alter Rebbe was born in Liozna, Belarus, and was among the principal students of the Magid of Mezeritch. His numerous works include the *Tanya*, an early classic containing the fundamentals of Chabad Chasidism; and *Shulchan Aruch HaRav*, an expanded and reworked code of Jewish law.



KAYIN AND HEVEL —
CAIN AND ABEL

S. Ilan Block, digital painting,
2023, New Jersey



Is cosmetic surgery permitted?
World-renowned decisor of Jewish law **Rabbi Hershel Schachter** responds:
myjli.com/decisions

III. TAKING THE GAMBLE

Having clarified Judaism's overall approach to medicine, including the Torah's directives to avoid risks to our lives and to seek healing for our illnesses, it is possible to attempt the application of this approach to the nuanced dilemma of risk-taking in pursuit of healing.



EXERCISE 1.2

Based on the Jewish approach to health and healing outlined above, do you consider it appropriate for individuals with life-threatening illnesses to turn to experimental drugs that have not yet been approved as safe and effective?

☐ Yes ☐ No

Provide the rationale for your response:



Who shall live and who shall die, and who gets to decide? **Rabbi Shlomo Yaffe** discusses rationing medical care: myjli.com/decisions



FIGURE 1.1

CHAYEI OLAM	CHAYEI SHAAH
long-term life	short-term life



TEXT 6

Rescue on Shabbat

Maimonides, *Mishneh Torah*, Laws of Shabbat 2:18

מי שנפלה עליו מפולת, ספק הוא שם ספק אינו שם -
מפקחין עליו. מצאוהו חי, אף על פי שנתרוצץ ואי אפשר
שיבריא - מפקחין עליו ומוציאין אותו לחי אותה שעה.

If a building collapses on Shabbat and we are unsure whether someone is buried beneath its rubble, we must clear [the rubble as a potential rescue attempt, although such activity is generally prohibited on Shabbat]. If we indeed discover a living person, even if they are crushed by debris to the extent of being mortally wounded, we nevertheless continue clearing the rubble off the victim to allow them to live a short while longer.





TEXT 7A

A Grave Question

Rabbi Yaakov Reischer, *Shevut Yaakov* 3:75

מְרוּפָּא מְמַחָה עַל חוּלָה אֶחָד שְׁחָלָה אֶת חָלִיו שְׁקָרוּב
לְמוֹת בּוֹ, וְכָל הָרוּפְּאִים אוֹמְדִין שְׂוֹדֵדֵי יָמוֹת תּוֹךְ
יוֹם אוֹ יוֹמִים. אֵךְ שְׂאוּמְדִין שְׂיֵשׁ עוֹד רְפוּאָה אַחַת
שְׂאֵפְשֶׁר שְׂיִתְרַפֵּא מִחָלָיו, וְגַם אֵפְשֶׁר לְהִפְךָ - שְׂאֵם
יָקַח רְפוּאָה זֹה, אִם אֵינוֹ מַצְלִיחַ חָס וְשָׁלוֹם, יָמוֹת מִיָּד
תּוֹךְ שְׁעָה אוֹ שְׁתַּיִם, אִי מִתֵּר לַעֲשׂוֹת רְפוּאָה זֹה . . .
תְּשׁוּבָה: הוֹאִיל שְׂדִין זֶה הוּא דִּינֵי נַפְשׁוֹת מְמָשׁ, וְצָרִיךְ
לְהִיטֵת מְתוֹן מְאוּד בְּשִׂיאָהּ כְּזוֹ מַשׁ"ס וּפּוֹסְקִים בְּשִׁבְעַ
חֻקִּירוֹת וּבְדִיקוֹת, כִּי כָּל הַמַּאֲבָד נַפֶּשׁ אַחַת מִיִּשְׂרָאֵל וְכוּ',
וְכֵן לְהִפְךָ - הַמְּקַיֵּם נַפֶּשׁ אַחַת כְּאֵלוֹ קַיִם עוֹלָם מְלֵא.

I received an inquiry submitted by an expert doctor regarding a terminally ill patient: The unanimous medical prognosis is that the patient will die within the next couple of days. However, the physicians suggest that there is a medicine that might cure him but might cause him to die within a couple of hours of taking it. Is it permitted to administer the medicine? . . .

My response is that this is a matter of life and death, which therefore requires exceptionally careful consideration. It is necessary to thoroughly review the relevant passages in the Talmudic and Halachic codes, for "One who kills a single

**RABBI YAAKOV BEN
YOSEF REISCHER
c. 1670-1733**

Renowned rabbi, Halachic authority, and author. He served on rabbinical courts in Prague, Ansbach, Worms, and Metz. He was accepted by contemporary rabbis as the ultimate authority on Halachic issues, and problems were addressed to him from all over the Diaspora and Israel. His most famous works are *Chok Yaakov*, an exposition on the section of the Shulchan Aruch pertaining to the laws of Passover; and his responsa *Shevut Yaakov*.

individual is considered as having destroyed an entire world, and conversely, the act of saving a single individual is considered as having sustained an entire world” (MISHNAH, SANHEDRIN 4:5).



TEXT 7B

Initial Thoughts

Rabbi Yaakov Reischer, *ibid.*

וְלִכְאוּרָה הִיא נִרְאָה דָּשֵׁב וְאֵל תַּעֲשֶׂה עֲדִיף,
כִּי חִישִׁינָן לְחַיֵּי שָׁעָה, אֲפֹלוּ מִי שֶׁכָּבֵר הוּא גּוֹסֵס מִמָּוֶשׁ.

Apparently, it would seem appropriate to apply the principle of *shev ve'al taaseh*—“it is preferable to let the situation sit where it is and make no proactive move”—out of concern for the preservation of *chayei shaah*. This consideration applies even in the case of *goses*, a dying patient in the final throes of life.



TEXT 8A

Pursuing Long-Term Hope

Talmud, Avodah Zarah 27b

אָמַר רַבִּי יוֹחָנָן: סָפֵק חַי סָפֵק מֵת,
 אִין מְתַרְפָּאִין מֵהֶן. וְדַאי מֵת, מְתַרְפָּאִין מֵהֶן.
 הָאִיפָא חַיִּי שְׁעָה?
 לְחַיִּי שְׁעָה לֹא חִיִּשְׁיָנָן.

Rabbi Yochanan stated, “When it is doubtful whether an invalid will live or die [and the only physician available is a heathen whose animosity toward Jews leads us to suspect that he might deliberately kill the patient], we do not approach that physician for treatment. However, if we are certain that without treatment the patient will die, we may approach that physician for treatment.”

[The Talmud asks:] Are we not placing the patient’s *chayei shaah* in potential jeopardy?

[The Talmud responds:] In such a case, the concern for *chayei shaah* can be disregarded.



EXERCISE 1.3

Complete the chart to summarize the cases mentioned in Text 8a:

STATE OF THE PATIENT	NATURE OF THE DOCTOR	MAY THE PATIENT VISIT THE DOCTOR?



TEXT 8B

Long-Term Source

Talmud, Avodah Zarah 27b

וּמִנָּה תִּימְרָא דְלַחֲיֵי שְׂעָה לֹא חִישִׁינִן?

On what grounds are we permitted to waive the concern for *chayei shaah*?

The Siege of Samaria

The Talmud derives the permissibility for people to risk their lives in the hope of a long-term cure from a biblical story about the siege on Samaria, the capital of the Kingdom of Israel.

In this spread we present the biblical text regarding the siege, supplemented with commentary.

II KINGS

6:24–25

²⁴ A while later, King Ben-Hadad of Aram mobilized his entire army, ascended to Samaria, and besieged it. ²⁵ There was a great famine in Samaria. ¹ The siege went on for so long that the head of a donkey sold for eighty silver shekels, and a quarter of a *kav* of doves' dung sold for five silver shekels. ²

COMMENTARY

¹ RABBI MEIR LEIBUSH WISSER, *MALBIM*, AD LOC.

Samaria struggled with seven years of devastating famine before the Aramean siege began. The calamity was further compounded as a result of the invasion's timing: Ben-Hadad attacked during the harvest season, occupied the villages and fields surrounding the city, and built siegeworks around the city, so that even the meager crops that did grow never reached the starving city.

² RABBI DON YITZCHAK ABARBANEL, AD LOC.

The starvation was so extreme that people resorted to eating nonkosher donkey flesh. This was permissible according to Jewish law, given the circumstances, based on the Torah's directive to "keep G-d's laws and live by them"—from which the sages deduce that we must "live by them, as opposed to dying because of them."

The siege prevented the population from collecting firewood from wooden areas outside the city. In desperation, they collected dove dung as fuel to cook their meager rations of raw edibles. Alternatively, the intensity of the hunger drove people to search for undigested wheat kernels in doves' dung.

II KINGS

7:3–6

³ Four men ³ stricken with *tzaraat* lingered outside the city gates. ⁴ They told each other, “Why should we sit here until we die of starvation? ⁴ If we decide to enter the city, we will die there due to the famine in the city. If we stay here, we will also die. So let’s go now and defect to the Aramean camp. If they spare us, we will [be provided food and] remain alive. And if they kill us—we are going to die anyway!” ⁵ ⁵ They got up at twilight to go to the Aramean camp. When they arrived at the edge of the Aramean camp, they saw that no one was there. ⁶ G-d had made the Arameans hear the sounds of approaching chariots and horses—a vast force—and they told

COMMENTARY

³ II KINGS 5; TALMUD, SANHEDRIN 90A AND 107B

The Talmud discloses the identities of the four *tzaraat*-afflicted men. They were Gechazi—the Prophet Elisha’s disgraced former right-hand man—along with his three sons. The story of Gechazi’s banishment was related earlier, in chapter 5: When Elisha refused to accept payment for curing the Aramean General Naaman of *tzaraat*, Gechazi was determined to take advantage of the situation. Gechazi approached Naaman independently, claimed to represent Elisha, and solicited a generous payment for himself. Elisha subsequently learned of Gechazi’s betrayal and disassociated himself entirely from Gechazi. As a consequence of the prophet’s displeasure, Gechazi contracted the same *tzaraat* disease that had afflicted Naaman. The Talmud includes Gechazi on its short list of individuals whose evil caused them to lose their share in the World to Come.

⁴ LEVITICUS 13:46; MISHNAH, KELIM 1:7

Why were *tzaraat*-sufferers banished from the besieged city? The Torah prohibits individuals afflicted with *tzaraat* from entering the Israelite camp. During the Jewish stay in the Sinai Desert, such an individual would “dwell alone outside the camp” until the *tzaraat* had passed. In the Land of Israel, the same rule prevented those with *tzaraat* from entering a walled city. Although these four men were banished from the besieged city, they chose to linger outside its gates in the desperate hope that the city’s inhabitants might provide them with some food.

⁵ DR. ABRAHAM S. ABRAHAM, M.D.,
NISHMAT AVRAHAM, VOL. 4, P. 240

The Talmud views the *tzaraat*-sufferers’ decision to risk defection to the Arameans as proof that the Torah permits an individual to risk their immediate survival (*chayei shaah*) in exchange for a chance at securing long-term

II KINGS

7:6–9

each another, “Look! The king of Israel has hired the Hittite and Egyptian kings to attack us!”⁷ So they arose and fled in the twilight, abandoning their tents, horses, and donkeys; they left the camp as is and fled for their lives.⁸ The *tzaraat*-afflicted men reached the edge of the camp, entered one of the tents, and ate and drank. They then carried off silver, gold, and clothes, and went and hid them. They returned and entered another tent, and again carried away and hid the loot.⁹ Then they told each other, “We are acting incorrectly: today is a day of good news, and we are remaining silent! It would be a sin to wait until daylight [to inform the besieged city of their miraculous salvation]. Let us go immediately and report this to the king’s palace.”⁶

COMMENTARY

life (*chayei olam*). However, the Talmud’s use of this case is baffling: If the head of these men was the immoral Gechazi, how can we view his conduct as precedent regarding moral choices? Rabbi Shlomo Zalman Auerbach explains that the biblical narrative chose to record his choice of action for posterity without attaching any form of condemnation or reservation. Furthermore, the *tzaraat*-sufferers were the ones who merited discovering and announcing the miracle that had taken place. Consequently, this episode forms sound precedent from which we may derive laws.

⁶ **SHEVET MUSAR 14**

Rabbi Eliyahu Hakohen Ha’Itamri, an eighteenth-century ethicist, considers Gechazi’s looting of the Aramean camp a cautionary tale regarding the allure of greed. Gechazi had contracted *tzaraat* in the wake of his egregious display of greed (see note 3). Although he had been banished from society and

had no foreseeable way to benefit from the booty, Gechazi’s greed was stronger than his good sense. He rushed to hide caches of silver and gold, although it would never bring him any real benefit.

TZIDKAT HATZADIK 73:1

Conversely, Rabbi Tzadok Hakohen of Lublin, a nineteenth-century Chasidic thinker, considers Gechazi’s actions positively: G-d presented Gechazi with an opportunity to choose between mindless looting and demonstrating that he had overcome his negative trait. When he indeed stopped and declared, “It will be a sin for us if we wait...”—choosing to inform the population of Samaria of their salvation rather than keeping all the loot for himself—he demonstrated that he had begun to rise above his past failure.



TEXT 9

Desperate Defection

II Kings 7:3–4

וְאַרְבָּעָה אֲנָשִׁים הָיוּ מִצִּרְעִים פֶּתַח הַשָּׁעַר, וַיֹּאמְרוּ אִישׁ
 אֶל יָרֵהוּ, מָה אֲנַחְנוּ יֹשְׁבִים פֹּה עַד מָתָנוּ. אִם אָמְרוּנוּ נָבוֹא
 הָעִיר וְהָרָעַב בָּעִיר וּמָתָנוּ שָׁם, וְאִם יֵשְׁבֻנוּ פֹה וּמָתָנוּ.
 וַעֲתָה לָכּוּ וְנִפְלֶה אֶל מַחֲנֶה אֲרָם, אִם
 יַחֲיוּנוּ נַחֲיָה, וְאִם יָמִיתֻנוּ וּמָתָנוּ.

Four men stricken with *tzaraat* lingered outside the city gates. They told each other, “Why should we sit here until we die of starvation? If we decide to enter the city, we will die there due to the famine in the city. If we stay here, we will also die.

“So now, let us go and defect to the Aramean camp. If they spare us, we will [be provided food and] remain alive. And if they kill us—we are going to die anyway!”

KINGS

Biblical book. Part of the “Prophets” section of the Hebrew Bible, the book of Kings relates the story of the Jewish people and their kings and prophets, from the end of the reign of King David until the Babylonian exile (837–423 BCE). Written by the prophet Jeremiah, Kings is originally one book, later divided into two parts.



QUESTION

In which way is this case similar to that of the potentially murderous physician?



TEXT 10

Seizing Hope

Rabbi Yaakov Reischer, *Shevut Yaakov* 3:75

בְּרֵם, אִם אֶפְשָׁר שְׁעַל יְדֵי רְפוּאָה זוֹ שְׁנוּתָן לוֹ יִתְרַפֵּא
לְגִמְרֵי מַחְלֵיו, וְדֹאֵי לֹא חִיִּשְׁיָנוּ לְחַיֵּי שְׁעָה. וְרֹאֶה בְּרוּרָה
לְחִלּוּק זֶה מְסוּגִיָּא דְש"ס . . . אִם כֵּן, גַּם כֵּן בְּנִדּוֹן זֶה - כִּיּוֹן
שְׂוֹדֵאֵי יָמוּת, מִנִּיחִין הַוֹדֵאֵי וְתוֹפְסִין הַסֶּפֶק אוֹלֵי יִתְרַפֵּא.

וּמִכָּל מְקוֹם, אֵין לַעֲשׂוֹת הָרּוּפָא כְּפִשּׁוּטוֹ כֵּן, רַק צָרִיךְ
לְהִיּוֹת מְתוֹן מְאֹד בַּדָּבָר, לְפַקֵּחַ עִם רוּפְאֵין מְמַחִין
שְׁבָעִיר עַל פִּי רַב יְדְעוֹת . . . וְהַסְכָּמַת הַחֲכָם שְׁבָעִיר.

If the possibility exists for this treatment to completely cure the patient from his illness, we can certainly disregard the concern for *chayei shaah*. This approach has clear precedence in the aforementioned Talmudic case. . . . Consequently, in our case, since the patient will certainly die without intervention, we ignore the certainty [that he will survive on his own for a few more days] and seize the chance of fully healing him.

The above decision notwithstanding, a physician must not take this decision lightly. It is necessary for the physician to weigh the situation carefully, to consult with the other expert physicians in that city, and in case of divergent views, to abide by the consensus of the majority of experts . . . and to procure the agreement of the local Halachic authority.



Is medicine shaped by evolving social philosophies and ethics, or does it adhere to timeless values? Watch **Dr. Yaakov Brawer**, Professor Emeritus at McGill University's Faculty of Medicine, discuss this in *Where Medicine Differs*: myjli.com/decisions

IV. DEFINING THE PARAMETERS

According to the above principle in Jewish law, when faced with a choice between securing *chayei olam*, long-term life, and *chayei shaah*, short-term life, *chayei olam* takes precedence. However, in order to apply this principle to specific cases, it is necessary to arrive at more precise definitions of the parameters of *chayei shaah* and the degree of risk that can be tolerated in pursuit of *chayei olam*.



TEXT 11

Terminal Boundaries

Rabbi Avraham Yitzchak Hakohen Kook,
Mishpat Kohen 144:3

אין בִּיְדֵינוּ רְאִיּוֹת לְקַצֵּב בְּבִירוֹר כְּמָה יֵאָרֵךְ הַזְּמַן לְצֵאת מִכָּל
חַיִּי שְׁעָה לְחַיִּי עוֹלָם. וּמִסִּתְּבָרָא מִלֵּתָא שְׁכָל שְׁאֲנוּ יוֹדְעִים
שְׁעַל יְדֵי סָבָה זֶה שֶׁל הַסִּכָּנָה שֶׁהַחֲלָה פְּעֻלָּתָהּ תָּבוֹא הַמִּיתָה,
בֵּין אִם תִּקְדִּים וּבֵין אִם תֵּאַחֵר - הַכֹּל בְּכֹלל חַיִּי שְׁעָה.

The boundary marking the transition from *chayei shaah* to *chayei olam* is not clearly delineated. However, it is logical to assume that as long as we know that the illness is already terminal, regardless of how much time will pass until death arrives, it is considered *chayei shaah*.

**RABBI AVRAHAM
YITZCHAK HAKOHEN
KOOK
1864–1935**

Rabbi, author, and thinker. Born in Latvia, Rabbi Kook served as a rabbi in eastern European communities before immigrating to Israel in 1904 to serve as the rabbi of Jaffa. In 1917, he became the first Ashkenazic chief rabbi of pre-state Israel, and he was a leading figure in the religious Zionist movement. Rabbi Kook wrote many books on Jewish thought and law—including *Orot Hakodesh*—most of which were published posthumously.



TEXT 12

The Twelve-Month Principle

Rabbi Shlomo Kluger, cited by *Darchei Teshuvah*,
Yoreh De'ah 195:6

לא נתפרש כמה הוא השעור של חיי שעה. ואין לומר
דאם סופו למוות תוך שנה או שנים נמי יהא נחשב חיי
שעה. דאם כן איך משפחת לה חיי עולם, הרי סוף כל
אדם למוות, ומה לי שנה אחת או שנים או מאה, סוף
סוף לעולם לא יחיה, ואם כן יהיה נחשב הפל חיי שעה?

ודחק לומר דדוקא אם ימות מאותו חלי נחשב חיי
שעה. אבל אם ימות מחלי אחר לא נחשב חיי שעה,
דזה אינו, דמה לי מחלי זה או חלי אחר...

דמהא דקיימא לו דטרפה אינה חיה י"ב חדש, מוכח
דכל שאינו יכול לחיות מחמת חלי זה י"ב חדש
וסופו למוות מחלי זה בתוך י"ב חדש לא נחשב
חיי רק חיי שעה, אבל אם עומד למוות רק לאחר
י"ב חדש לא נחשב חיי שעה, רק חיי עולם.

The definition of *chayei shaah* is not clearly spelled out in Jewish law. It is clear that a life expectancy of one to two years cannot be considered *chayei shaah* because if so, what is *chayei olam*? After all, everyone is mortal, and what difference is there between one year, two years, or one hundred years—seeing that no one lives forever? Are we to categorize all life as *chayei shaah*?

RABBI SHLOMO KLUGER 1783–1869

Born in Komarow, Poland; for a time he was a shopkeeper, but in 1820, he assumed the rabbinate of Brody, where he served for almost 50 years. During his lengthy career, Kluger wrote over 160 volumes on the Torah, including *Sefer Hachayim*, an explanatory commentary on the first section of the Shulchan Aruch, and *Sefer Stam*, concerning the laws of writing a Torah scroll. He wrote hundreds of responsa, some of which appear in *Ha'elef Lecha* "Shlomo." His writings covered various branches of rabbinical literature, as well as biblical and Talmudic exegesis. Among his students was the famed Rabbi Yosef Dov Soloveitchik, author of *Beit HaLevi* and dean of the yeshiva in Volozhin.

Nor does it appear correct to say that *chayei shaah* only refers to a situation in which the patient will die from the specific illness for which they presently seek a cure, and not from other ailments. What difference should it make what illness will cause the person's death? . . .

Rather, it would appear that just as a *terefah* is defined as an ill person or animal that will not live more than twelve months, similarly, anyone whose illness will prevent them from surviving for more than twelve months has entered the category of *chayei shaah*. Conversely, if the illness will cause death only after twelve months, the interval is not considered *chayei shaah*, but *chayei olam*.

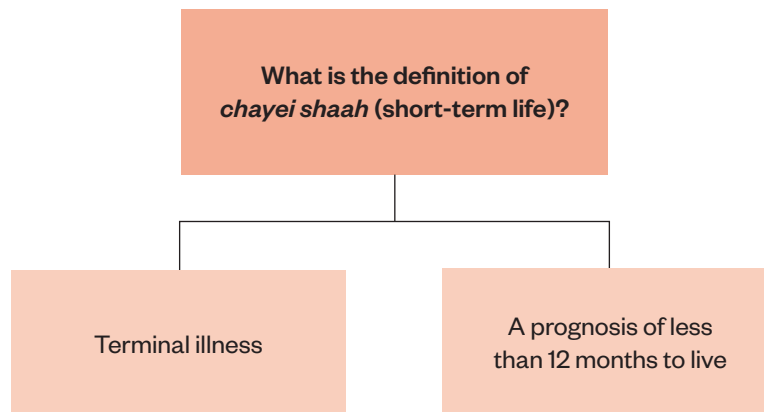


**NIR PERMANENT SUB
SOLE—NOTHING IS
ETERNAL UNDER THE SUN**
Alex Levin, oil on canvas,
2016, Tel Aviv



FIGURE 1.2

Defining *Chayei Shaah*



TEXT 13

Degrees of Danger

Rabbi Eliezer Yehudah Waldenberg, *Tzitz Eliezer*, vol. 10, 25:5

אולם כל זה הוא כְּשֶׁעַל כָּל פְּנִים הַסְּפוּיִים לְחַיִּים
אוּ לְמוֹת עַל יְדֵי בְּצִוֵּעַ נִתּוּחַ כְּזֶה שְׂוִים הֵם, אֲבָל לֹא
בְּהִיכָא שֶׁהַתּוֹצֵאָה מִהַנִּתּוּחַ הוּא שְׂיָמוּת עַל פִּי רַב.

However, this permission to operate is valid only if the chances of life and death as a result of the surgery are equal—but not if, in the majority of cases, the patient will die as a result of the operation.

RABBI ELIEZER YEHUDAH WALDENBERG
1915–2006

Noted Halachic authority. Rabbi Waldenberg served as judge on the Supreme Rabbinical Court in Jerusalem and was known as an eminent authority on Jewish medical ethics and Jewish law. He published his Halachic responsa, *Tzitz Eliezer*, which is viewed as one of the great achievements of Halachic scholarship of the 20th century. He served as rabbi for the Shaare Zedek Medical Center in Jerusalem.



TEXT 14

For Any Hope

Rabbi Chaim Ozer Grodzinski, *Achi'ezer*,
Yoreh De'ah 16:6

דְּלַחֲיֵי שְׁעָה לֹא חִי'שִׁינוּ הֵיכָא דְּאֶפְשָׁר שְׁיִתְרַפֵּא,
אֶף בְּאֶפֶן רְחוֹק, כָּל שְׁנִיתָאֵשׁוּ מִרְפּוּאָתוֹ.

When faced with a case in which there is no alternative hope for a patient's survival, we disregard our concern for *chayei shaah* in exchange for even a remote possibility that the patient will be healed.

**RABBI CHAIM OZER
GRODZINSKI**
1863–1940

Leader of Lithuanian Jewry in the years prior to the Holocaust. In his youth, he studied at the famed yeshiva in Volozhin and was known for his superb memory. In 1887, at the young age of 25, he was appointed judge of the famed rabbinical court of Vilna and was very active in the affairs of the community. He was one of the founders of the Agudath Israel movement and a pillar of the movement throughout his lifetime. His *Achi'ezer* is a collection of his responsa.



Illuminated page from a fifteenth-century copy of *The Canon of Medicine*, by Avicenna (also known as Ibn Sina). The influential medieval work was translated from Arabic to Hebrew in 1279 by Natan ha-Me'ati of Italy. (British Library, London)



TEXT 15

Experimenting with Hope

Rabbi Shlomo Zalman Auerbach, *Minchat Shlomo*,
vol. 2, 82:12

מי שחולה במחלה קשה אשר אין הרופא רואה סכוי
להצילו בתרופות רגילות, הרי זה דומה לנתוח, דאף שיש
ספק שאם לא יצליח ימות מיד, אפלו הכי מתר. והכא
נמי, גם כאן שפיר רשאי להשתמש בתרופה מספקת.

The case of a seriously ill patient for whom
the physicians see no hope of survival using
standard drugs is similar to a case of a
last-recourse surgery, which is permitted even
though there is a risk that the patient will die
immediately as a result. It is therefore permitted
to use an unproven drug in this case.

**RABBI SHLOMO
ZALMAN AUERBACH**
1910–1995

Halachic authority. Born
in Jerusalem, Israel,
Rabbi Auerbach served
as the dean of Yeshiva
Kol Torah. Recognized
as one of the prominent
Halachic authorities
of the 20th century, he
issued many important
rulings related to the
interface of Jewish law
with medical ethics and
modern technology.
His rulings and
responsa are collected
in *Shulchan Shlomo*
and *Minchat Shlomo*.

Handwritten pages from an
unpublished medical book,
a collection of remedies
(*Catalogo de Diferentes
Remedios para Diversas
Sortes de Achaques, Achados
por Experiencia Haverem
Sido Bonos*—Catalogue of
Diverse Remedies for Various
Ailments, Found by Experience
to Have Been Good), David
Aboab, Amsterdam, 1685 (Ets
Haim Library, Portuguese
Synagogue of Amsterdam)

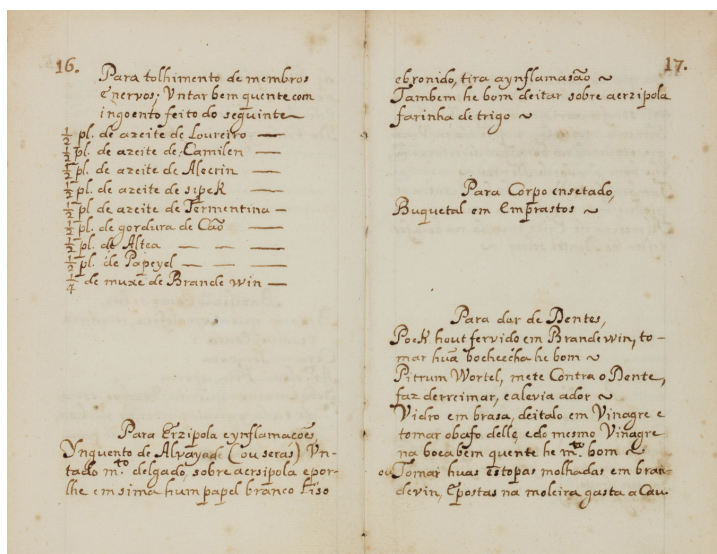
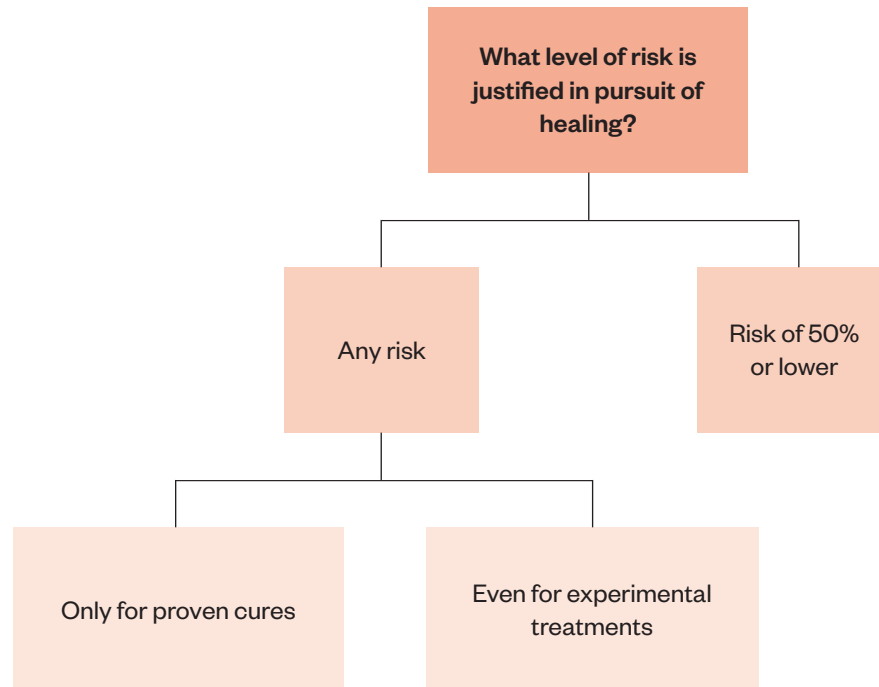




FIGURE 1.3

Risky Healing



V. CONCLUSION

We now return to consider the questions raised by the case of Radha Rangarajan, based on the Jewish sources we have studied.



EXERCISE 1.4

1. Do you consider it appropriate for individuals suffering from life-threatening illnesses to be granted access to experimental drugs that have not yet been approved as safe and effective? If yes, under what conditions?

2. Are there circumstances under which you believe drug companies should be required to provide access?

The Rebbe's Advice on Health and Healing



Over the latter part of the twentieth century, the Lubavitcher Rebbe, Rabbi Menachem Mendel Schneerson, corresponded with many thousands of individuals from all walks of life. His letters covered the full spectrum of Jewish scholarship and thought, and the human condition.

Presented here is a selection from the Rebbe's letters that address queries and concerns regarding health and healing.

Following Doctor's Orders

Surely I need not remind you that the Torah grants "the healer permission to heal," and it thereby supplies medicine with a degree of Torah authority.

This negates the erroneous belief that G-d-fearing people need not strictly follow a doctor's instructions and may follow their independent perception. Instead, the opposite is true.

As is well known, Rabbi Shalom DovBer Schneerson [the fifth Lubavitcher Rebbe] once pointed to his hand and told his son Rabbi Yosef Yitzchak, "See the preciousness of a Jewish body! For its sake, G-d poured forth the vastness of Torah and *mitzvot*." The Alter Rebbe similarly declared, "We have absolutely no idea how precious a Jew's body is to G-d!"

Igrot Kodesh, Vol. 10, p. 200

I was sorry to hear that you were not feeling too well, but I trust that by the time this letter reaches you, your health will have improved satisfactorily. Inasmuch as there is always room for improvement in all things, I wish you further improvement and complete recovery.

Not knowing what sort of a patient you are, I take the liberty of expressing my confident hope that you follow your doctors' instructions. Even if this may entail an enforced period of rest and interruption in your work, which no doubt you would be inclined to militate against, nevertheless, I am confident that you will overcome this, so as to expedite your complete recuperation.

The Letter & the Spirit
(Kehot, 1999), Vol. 3, p. 206

I was sorry to hear that you have not been in the best of health. I trust that you are carrying out the instructions of your doctor, especially as this is also a basic teaching of our Torah, as it is written, "heal you shall heal." (Exodus 21:19)

No doubt you also heard the saying of our Sages that the physical body of a person is G-d's property which was given to the person in trust to take care of. Thus, it is obvious with what care a person has to guard one's health and body, which is G-d's property.

English letter, dated Jan. 13, 1975

Trust in G-d

I trust you are firm in your trust in G-d, hence it is not necessary to worry about every detail. Leave these details to G-d, so that you can devote your attention to your business and to matters connected with Torah and Mitzvot. To follow a physician's instructions is one thing, but to worry about them is quite another and it has no place in one who trusts in G-d.

English letter, dated 1954

It is surely unnecessary to emphasize to you the importance of *bitachon*—complete trust in G-d—not just as an abstract belief, but in a way that truly permeates one's whole being.

For, in addition to this being one of the very fundamentals of our faith and way of life, it is also a channel to receive G-d's blessings, especially for the success of your medical treatment, which has to be undertaken in the natural order, inasmuch as our holy Torah itself gives authority and power to doctors to heal and cure.

English letter, dated November 17, 1972

You write that your wife's doctor instructed her to remain in the hospital for several days to undergo various tests, but that she is terrified of the hospital due to various (unfounded) concerns.

Please explain to her, in words she will appreciate given her present state of mind, that G-d created the world and that He directs it. . . . Nothing occurs here in this world without G-d, and whatever G-d wishes is done. At the same time, G-d wants us to provide Him with natural channels, so that He may carry out His will using natural means.

When . . . a person falls ill and seeks a doctor, the intention is not that the doctor will do whatever he wants, but rather, G-d has chosen this doctor as His agent, so that G-d may send healing through his agency. . . .

Consequently, when she is admitted to a hospital on her doctor's orders, she remains under G-d's protection. G-d will look out for her and ensure that all works out in the best way possible for the health of her body and her soul.

Igrot Kodesh, vol. 3, p. 441

Doctor's Limits

You wrote about a doctor's prognosis for your wife's health, and the impact this had on the two of you. This is surprising, for you seem to have forgotten the *Tzemach Tzedek's* dictum, "The Torah lends physicians permission to heal—specifically to heal and not to discourage people [with negative prognoses]."

This is more relevant than ever in the modern era, when fresh medical treatments and medications emerge daily. It is irrational to predict the future in the terms of which you wrote. I hope that you will be strong in your trust in the Creator, Who directs the specifics of our lives, and that in the near future, you will discover that this prognosis is false.

Igrot Kodesh, vol. 15, p. 187

While I am pleased to read in your letter a quotation about G-d being the Creator of the world Who also guides all its destinies, etc., this very good impression is weakened by the further tone of your letter, where you state that you want to be "realistic," based on the prognosis of physicians regarding your condition.

I want to tell you, first, that even from the realistic point of view, we must recognize the fact that very many times the greatest physicians have made mistakes in diagnosis. Moreover, in recent times we see that new discoveries are made daily in the medical field, with new "wonder" drugs and methods, which have revolutionized medical treatment.

Secondly, observing life in general, we see so many things that are strange and unbelievable, that to be truly realistic one cannot consider anything as impossible.

In a condition which is, to a large extent, bound up with the nervous system and the resistance of the organism, even medical opinion agrees that the stronger the patient's faith in cure, and the stronger his will to get better, the stronger becomes his ability to recover.

The Letter & the Spirit (Kehot, 1999), Vol. 3, p. 198

KEY POINTS

- 1 Jewish law considers preserving our health a religious obligation: we are commanded to avoid danger, and to seek healing when we are ill.
- 2 In Jewish thought, seeking medical treatment is fully compatible with faith in G-d. G-d created cures for illnesses and expects us to develop and utilize them, becoming His partners in sustaining human life. At the same time, we should remain cognizant that the efficacy of any treatment ultimately depends on G-d's will, and pray for His assistance.
- 3 Jewish law discusses two forms of life: short-term (*chayei shaah*) and long-term (*chayei olam*). Short-term life may be endangered in the pursuit of long-term life.
- 4 The definition of short-term life in Jewish law is subject to dispute: some authorities rule that any terminal illness qualifies, while others require a prognosis of less than twelve months to live.
- 5 There is also a range of opinions concerning the degree of risk to short-term life one is allowed to take in pursuit of long-term life. Some authorities maintain that only risks of 50 percent or less can be tolerated, while others maintain that any chance of success justifies any risk.

APPENDIX



TEXT 16

Defining Normal

Rabbi Moshe Feinstein, *Igrot Moshe*, *Yoreh De'ah* 3:36

וְחַיִּים הָרְגִילִים, הוּא שֶׁיְהִיוּ חַיִּים בְּלֹא הַחֲלִי,
 שֶׁמִּצַּד הַטֵּבַע יָכוֹל לַחֲיוֹת כְּחַיֵּי סֵתֶם אָדָם.
 לֹא מִבְּעֵי אֵם יִתְרַפֵּא לְגִמְרֵי כְּבָרִיא מִמֶּשׁ... אֲלֹא
 אֲפֹלוּ כָּפִי שִׁיּוּתֵר מִצּוֹי דְּאַחַר נִתּוּחַ הוּא נִחְלָשׁ, וְצָרִיף
 לְשִׁמְרַת הָרִבָּה דְּבָרִים בְּאַכִּילָה וּשְׁתֵּיָה וּלְמַעַט בְּעִבּוּדָה,
 וְהָרִבָּה פְּעָמִים גַּם לִקַּח מִיָּנִי סָמִים לְשִׁמּוֹר מִצָּבוֹ שֶׁלֹּא
 יִחְלָה עוֹד הַפֶּעַם, שֶׁגַּם כֵּן פָּשׁוּט שֶׁהוּא כְּחַיֵּי סֵתֶם
 אָדָם, שֶׁאֵיכָא בָּהֶם גַּם אֲנָשִׁים חֲלוּשִׁים שֶׁצָּרִיכִים
 לְשִׁמְרָה מִדְּבָרִים כָּאֵלוֹ, וְאֶפְשָׁר לָהֶם שִׁיחֲיוּ הָרִבָּה
 שָׁנִים כְּאֲנָשִׁים הַבְּרִיאִים, וְגַם עוֹד יוֹתֵר...
 אֲךָ אִם הִנֵּתוּחַ יוֹעִיל, רַק שֶׁאֶפְשָׁר שִׁימְשֹׁף בְּמִצָּב כְּזֶה זְמַן
 גָּדוֹל תַּחַת הַזְּמַן מוֹעֵט, וַיֵּשׁ סִפֵּק שֶׁהִנֵּתוּחַ יִמִּיתֵהוּ תִּכְרָה,
 מִכֵּיּוֹן שֶׁאֵף אִם יַעֲלֶה הִנֵּתוּחַ יִפָּה יִהְיֶה עָלוּל בְּכָל יוֹם מִצַּד
 הַמַּחֲלָה לָמוּת, אֲף שִׁיעֲשֶׂה אֶפְשָׁרִיּוֹת לְמִשְׁוֹף בְּמִצָּב סִכְנָה
 כְּזֶה הָרִבָּה זְמַן, מִסִּתְּבָר לַעֲנִיּוֹת דַּעֲתִי שֶׁאֵין לְהִתִּיר.

Ordinary life means life without that illness and a return to life's natural progression, according to which one is expected to live like the average person.

The above is needless to emphasize in the case that a patient is expected to gain total healing through

RABBI MOSHE FEINSTEIN
1895–1986

Leading Halachic authority of the 20th century. Rabbi Feinstein was appointed rabbi of Luban, Belarus, in 1921. He immigrated to the U.S. in 1937 and became the dean of Metivta Tiferet Yerushalayim in New York. Rabbi Feinstein's Halachic decisions have been published in a multivolume collection entitled *Igrot Moshe*.

the procedure. . . . However, it equally holds true in the more common scenario in which a patient is expected to remain weak post-surgery and will need to proceed with caution in several areas of life—such as maintaining a proper diet, avoiding excessive exertion, and, more often than not, taking medication regularly to prevent a relapse.

We must obviously consider the latter scenario to similarly be an ordinary way of living, for many individuals live naturally with weaknesses that require them to be cautious in the above matters—and it is possible for such individuals to live for many decades, with lifespans equal to those of healthy individuals and sometimes even longer. . . .

This is not the case, however, if the surgery is expected to enable a patient simply to continue in their ill state for a longer period—and it is coupled with a possibility that the surgery will result in instant death.

For, in such a scenario, a successful surgery nevertheless leaves the patient prone to die from this illness at any moment; it merely creates the possibility of surviving in a critical condition for a longer duration. It therefore appears, in my humble opinion, that such a surgery should not be permitted.