

*These remarks were part of the invited opening to a recent phone call on health care with President Obama for American rabbis.*

When one starts from a worldview in which God is active in the workings of the world, it is quite possible to understand illness and physical weaknesses as God's judgment on the ailing person, so that any intervention is a challenge to the workings of God's will. This viewpoint has been voiced by some Jewish thinkers, from the sages of the classical rabbinic tradition, through the great bible commentators of the medieval period, and beyond. In other contexts, and in numerous sources, however, saving a life is considered to be one of the highest commandments in Judaism, so much so that almost every other commandment can be violated to further this end. This quite different perspective – one that validates medical expertise and makes the practice of healing a religious obligation – has also been present in Jewish tradition from its earliest expressions.

Two verses in particular from the Torah serve as the core foundation for what has become the normative Jewish view on healing and access to healthcare. Exodus 21:19 discusses a case in which one person has injured another in an altercation. The Torah rules that the assailant must see to it that the victim receives necessary medical attention: "he shall certainly heal him." In context, the obvious meaning is that the assailant must pay the victim's medical costs, but the rabbis derive additional meaning from the doubling of the verb in Hebrew.

Thus we read in the Talmud, Berakhot 60a and Bava Kama 85a: "It was taught in the school of Rabbi Ishmael: 'he shall certainly heal him' – from this source, the healer is given permission to heal." As Nachmanides noted in his 13th century work, *Torat ha-Adam*, "this is to say that it is not forbidden because of the concern that the doctor might inadvertently err; also, people should not say 'the Holy One has struck (the ill person) and is the One to heal.'" Nachmanides continues, "it is a commandment to heal, and is in the category of saving a life."

That healing is not only permissible, but can be considered a required act for those with the necessary knowledge and training, emerges all the more strongly from a second verse, Deuteronomy 22:2. In its basic, contextual meaning, the verse tells us that one who finds lost property is obliged to return it to the original owner: "you shall return it to him."

Since the Hebrew suffix meaning "it" can also mean "him," the rabbis reread the phrase, in Bava Kama 81b and Sanhedrin 73a: "From where do we know the requirement to return a person's body?" – that is, save a person's life? "The Torah says, 'return him to himself.'" Maimonides, in his commentary on the Mishnah (Nedarim 4:4), makes explicit that this includes providing medical care: "the doctor is obligated by law to heal...and this is included in the explication of the verse, that 'return it to him' means to include (the 'return' of) his body..." Joseph Karo thus brings together these traditions to write in the Shulhan Arukh (Yoreh De'ah 336:1): "Torah gives the healer permission to heal. And it is a commandment, and is a matter of saving life. And if one withholds oneself, this person spills blood."

We now come, then, to the question much on our minds at this moment – how is healthcare to be provided to those who need, and whose responsibility is it to see that health care is provided? Both the Palestinian and Babylonian Talmuds state that a person, or at least a scholar, should not live in a town that does not have a doctor (P.T. Kiddushin 4:12 [66b]; B.T. Sanhedrin 17b). At a time when all family finances were supposed to flow through the male head of household, the rabbinic tradition ruled that husbands were expected to pay for their wives' needed medical treatment, and this was considered an obligation as basic as providing for her daily sustenance (Mishnah Ketubot 4:9; B.T. Ketubot 52b). Clearly, individuals and families have the first responsibility to seek out the healthcare they need and to pay for it as they are able.

Nor is a medical provider allowed to overcharge for treatments or for medicines in a case of dire need, a rule codified in the Shulhan Arukh (Yoreh De'ah 336:3): "One who has medications, and another person is sick and needs them, it is forbidden to raise their prices beyond what is appropriate." Yet because receiving needed medical care can be a matter of life and death, and saving life is a religious and moral obligation, numerous sources suggest that doctors have an obligation to provide medical care in all cases, even to those unable to afford it on their own. The Talmud, in Ta'anit, praises the model of Abba the blood-letter: "He had a spot outside (of his workspace) to put coins; those who had put some in, but those who did not have could come in and sit without being ashamed." But this approach is an ideal. Certainly, it could leave physicians in an untenable position, obligating them to care for all in need, but not yet insuring that their own needs to make a reasonable living will be met.

I turn, then, to a much more recent source, a modern responsum by Rabbi Eliezer Waldenberg, published in 1985 (Ramat Rachel, no. 24; published in vol. 5 of Rabbi Waldenberg's collected responsa, Tzitz Eliezer). He begins by writing that the provision of needed medical care is of such significance that a bet din may, in fact, compel a doctor to provide free medical care to a patient unable to pay, and that it is not the responsibility of the court or the community to reimburse the doctor. However, he then modifies this ruling in a very important way, applying it only when there is just a single doctor in the locale. Where there are multiple doctors, no one doctor can be compelled to provide services not demanded of the others. Rabbi Waldenberg thus suggests several means by which a community might provide for its members, including paying for the medical care from communal charity funds, or creating a system whereby doctors equitably share the case load on a pro bono basis. His preferred system, where the community has the means, is to provide a monthly fee for doctors in exchange for seeing any patients in need. What is most significant about Rabbi Waldenberg's responsa, then, is not that he provides the Jewish answer for the way in which a community should provide medical care for all. What he does tell us, though, is that providing such care, in the final analysis, is most certainly the responsibility of the community as a whole. It is thus not surprising that Jewish rabbinic and lay organizations across the denominational spectrum have agreed that we must seek the goal of an equitable system of access to healthcare in America.

Finally, I would like to conclude with the words of Maimonides, himself a physician in addition to his many other achievements. In *Hilkhot De'ot* (4:1), what we might call the Laws of Personal Development, he writes: "Health and wholeness of the body are among the ways of God, for it is impossible that one can understand or know anything of the knowledge of the Creator when one is ill. Therefore one must distance oneself from things that harm the body, and conduct oneself in ways that create health and wellness." A failure to promote health when we have the ability to do so impedes our chances of achieving our full spiritual and personal potential. And as for the individual, so for the community made up of those individuals. May we be worthy to create a society in which no one is denied the opportunity to seek personal health and its benefits.

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