

Medical Triage

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AS THE CORONAVIRUS PANDEMIC progresses, medical centers worldwide fear impending shortages of medical equipment, particularly ventilators, and anticipate unfathomable decisions about who—and who not—to save. What is the halachic approach to medical triage in this scenario? Also, may physicians disconnect a patient who has no chance of survival from a ventilator, to avail the ventilator to another patient with a much better chance of survival?

There are two key factors to consider in developing halachic medical triage guidelines:

- Degree of danger: Halachah prioritizes a patient in grave danger over a patient in less immediate danger, who can be cared for later if/when their illness becomes more severe.
- Likelihood of survival: Halachah prioritizes the patient with a higher likelihood of survival.

Notably, age has no halachic relevance in medical triage. God alone knows and determines longevity, and the value of an individual's life is not necessarily related to their age. For these reasons or others, nowhere does halachah consider a person's age relevant in this context.

These triage guidelines apply only **before** a patient is connected to a ventilator or other medical device. However, once connected, one may not disconnect a

patient from a ventilator regardless of their prognosis, even to save someone much more likely to survive.

However—and I say this with tremendous fear and trepidation, since we are dealing with life and death issues—if there truly becomes a ventilator shortage, and patients are continuously arriving and requiring ventilation, then if a present patient has almost no chance of survival, it is my humble opinion that the medical team may withhold the ventilator from the present dying patient (*choleh b'faneinu*) to save it for the patient with a much better prognosis who is certain to come soon.

This opinion is based on the view of the *Chazon Ish*,¹ who sees no difference between a literal *choleh b'faneinu* (a patient physically present before a physician) and a patient who is **certain** to present soon. Consider the following: What would we do if a critically ill patient with almost no chance of survival arrived in the emergency room, where there is one ventilator remaining, and the ambulance dispatcher informs the hospital that a young patient, with an excellent chance of survival, is *en route* and will need the ventilator? In my opinion, we would reserve the ventilator for this patient, and this situation is just the same.

¹ Yoreh Deiah, siman 208.

We can seemingly prove this concept from a Talmudic story involving Rebbi,² based upon which the *Shulchan Aruch* in *Hilchos Tzedakah* ruled as follows:³

Rebbi was distraught that he gave his bread to an am-ha'aretz, because it was a year of famine, and [the food] that the am-ha'aretz ate detracted from [that which could have been given to] a talmid chacham.

However, if it weren't for this [fact that it was a year of famine], he [Rebbi] would have been obligated to support him [the *am-ha'aretz*].

If someone came before us dying of hunger, one is obligated to support him even though this might detract from a *talmid chacham* later.

Evidently, even though a charity distributor generally must support an *am-ha'aretz*, he should not do so at the expense of supporting a *talmid chacham*, **even when the *talmid chacham* is not immediately present**. Furthermore, if an *am-ha'aretz* is dying of hunger, but a *talmid chacham* in similar need is certain to come shortly after, we should again not support the *am-ha'aretz*. Only when a *talmid chacham* **might**, but will **not certainly**, come later, are these funds directed to the *am-ha'aretz* in immediate need. While there is a difference between saving people financially and medically, this discussion nevertheless reveals that, in the context of triage in matters of life and death, we consider someone who is certain to arrive as if they are already physically present.

Some halachic authorities maintain that upon arrival to hospital, a patient immediately earns a "right" to the available medical equipment, which cannot be revoked

for a patient arriving afterwards. However, in my humble opinion, no such right exists. The patient did not buy the ventilator or acquire it in any other way. The only relevant discussion points here are the halachic considerations in medical triage.

The *Teshuvos Minchas Shlomo*⁴ has a lengthy discussion on this topic, and seems to agree that one should not offer a ventilator to a patient unlikely to survive over another patient who is likely to survive. However, he adds a novel suggestion that if the physicians already began giving medical attention to one patient, they cannot leave this patient prematurely to care for another patient, similar to the halachic principle that one actively involved in a mitzvah is exempt from performing another mitzvah. He also suggests that the first patient may somehow have financially acquired a right to continued care. But these suggestions were not meant to be acted upon; they were discussed and considered, but never intended to be implemented. Truthfully, we never thought these questions would become practically relevant.

I did see an astounding opinion of Rav Zalman Nechemia Goldberg, *shlita*,⁵ where he argues, at great length, that one **should** disconnect a critically ill patient with no hope of survival from a ventilator to save another patient who may be saved, but there is a lot to debate about this opinion.

This is my humble opinion on this difficult subject. May Hashem enlighten us in the Torah and save us from mistakes.

2 *Bava Basra* 8a.

3 *Yoreh Deiah* 251:11.

4 *Tenyana* 86.

5 *Halachah U'Refuah*, vol. 2, p. 191; *Emek Halachah—Assia*, vol. 1, p. 64; *ibid.*, vol. 2, p. 183.