

# Halachic Living Wills During the 9 Days

By Rabbi Dr. Shlomo Brody

During the Nine Days – a period devoted to mourning our national tragedies – we also give space to consider the personal dimensions of loss and fragility. For this reason, there’s a minhag to spend time learning the laws of *avelut*, especially for those who do not spend time on these matters during the year.

Our great halachic authorities have long taught that it is appropriate to plan ahead for illness and death. Halacha encourages people to purchase, in advance, burial plots, tombstones, and burial shrouds. In fact, the Rivash even allowed people to dig their own graves, provided that they were not in such a state that it would not harm them physically or emotionally. Similarly, Rabbi Chaim Falagi and the Chafetz Chaim urged people to sign a financial will while they are healthy. As Hillel taught, “If I am not for myself, who will be for me?” Advance directives are the most prudent way to receive one’s wishes while also avoiding family strife.

Today, it is important for people to designate a healthcare proxy. When choices must be made as people age or approach the end of life, people may no longer be able to speak for themselves. Healthcare providers need to know that you want your decisions to be made within the framework of Jewish law. The decision of what someone in a hospital might deem to be in “your best interest” may not coincide with Jewish values. Your family members need to know who should make these decisions and which rabbi to consult with when there are halachic questions.

Ematai created a halachically-grounded advance healthcare directive to provide clarity and support along one’s healthcare journey. This document has been approved by leading *poskim*, distributed by national organizations, and adopted by the Rabbinical Council of America as their official directive ([ematai.org/rca](http://ematai.org/rca)). It consists of two components. The first is a legal directive that designates your proxy and alternates, names a rabbi for halachic consultation, and affirms your desire for medical decisions to be made in accordance with halacha. It is written in clear, accessible language. Versions are available for use in the US,

Ontario, Quebec, Israel, and the UK. The second component is a conversation guide that invites people to reflect and communicate their health-care goals and values. This tool is not only a guide for halachic decision-making, but also an act of care for one’s loved ones.

These values become significant in times when the benefits of certain treatments are not clear and the potential burdens are great. Doctors once paternalistically imposed decisions. Today, they are cautious because outcomes are uncertain and because Western values emphasize personal autonomy. The prevailing moral assumption is that individuals have the right to decide for themselves, especially when their “quality of life” is reduced. Jewish ethics, however, are framed around obli-

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gations, not rights. These include the obligation to protect one’s own health as well as the obligation to save others. For this reason, Jewish law prohibits self-inflicted harm and mandates others to prevent such destructive acts. We are guardians over our bodies, not their owners.

Occasionally, some Jews mistakenly believe that they may choose to forgo necessary healthcare treatments in order to avoid violating Shabbat restrictions or eating non-kosher food. Figures like Rabbi David ibn Zimra asserted that such a person is a “pious fool” (*chassid shoteh*) who must be compelled to receive such treatments. The halachic presumption is that we act to extend life, following our belief in the sanctity of life and the preciousness of every moment to do *teshuvah* and good deeds.

In this spirit, Rabbi Moshe Feinstein, for example, ruled that we may push a patient to receive a proven, life-saving medical treatment if his refusal stems from melancholy or despair after undergoing treatment. With great sensitivity, we can frequently restore people to their baseline health and give them the support to push forward.

As Rabbi Yaakov Emden noted, compelling patients is appropriate when the therapy is proven

and likely to succeed. It is less justified when the patient lacks confidence in the treatment, doctors themselves are uncertain, or the procedure entails significant suffering. In such a circumstance, he asserted, a person may abstain from treatment. Following this argument, Rabbi Feinstein contended that a patient may forgo interventions that will not heal him and will only extend a painful dying process. When possible, we try to lift the spirits and strengthen the willpower of suffering patients. Yet we must remain cautious before imposing treatments that may prolong suffering rather than relieve it, recognizing that we do not fully grasp the depth of another person’s pain, emotional and physical. Personal choice has a place in these circumstances.

Similarly, in cases in which surgery may prolong the life of a patient but not cure their condition, such as with risky amputations, Rabbi Shlomo Zalman Auerbach asserted that we should not compel such a patient to undergo this intervention. Similar rulings regarding suffering patients who are terminally ill have been issued by Rabbi Asher Weiss, Rabbi Eliyahu Bakshi-Doron, Rabbi Zalman Nehemiah Goldberg, Rabbi Hershel Schachter, Rabbi Mordechai Willig, and others. Rabbi Feinstein and Rabbi Moshe Sternbuch have similarly ruled that if a patient cannot speak for himself, we should presume he would decline such painful and non-curative treatment.

How might you feel about these issues? Now is the time to gift your loved ones with clarity about your values and preferences within the framework of halacha. In doing so, we help ensure that the final chapters of our lives are navigated with wisdom, compassion, and fidelity to Jewish law. Let us take these steps while we are healthy and clear-minded, offering guidance to those who may one day speak on our behalf.

*Im lo achshav, Ematai?* If not now, when?

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hungry, so thirsty for these words that finally articulated our feelings; we gobbled them up like candy, these words that only one year before had been just words but were now history and destiny intertwined in the most unimaginable way possible. One of the youngest speakers was an older teenager from shul who had just graduated high school. What she lacked in style and finesse she made up for with passion. As much as one can enjoy *kinnos*, I enjoyed listening to her speak and now I experienced that déjà vu that had been missing before, her youthful enthusiasm and her untainted, unsullied, unjaded ideas reminding me of my younger self.

We end *Megillas Eicha* with three powerful words: “*Chadesh yameinu kekedem*” – renew our

days as of old. A simple translation would have us think that this is merely a nostalgic desire for the good old days, a logical assumption after the horrors outlined in *Eicha* – who wouldn’t want to return to the time before the Temple was destroyed? A closer look at the words forces us to question the use of the word “*Chadesh*” – new. Wow are we asking Hashem to return us to the old days while simultaneously asking Him to renew, to change our days and forge a new and better reality? Of course we want to return to a better time, to the days before the *churban* and the Holocaust, to October 6, the day before our children truly realized what it means to be in *galus*. We do want to go back, but not as the people that we were then. We want to go back as the people we are now, people who have suffered and experienced loss, people who have grown and changed and transformed into better versions than before.

I rarely catch a glimpse of that eighteen-year-old

girl anymore; she is safely tucked away with other memories and older iterations of myself. Every past Tisha B’Av, for the briefest moment, she has reappeared, glowing with the lustrous halo of youth, so brightly, that I could only look at her out the corners of my eyes. Last year when she shimmered back to life, she waited for me, patiently, to extract that perfect memory, the one I would use, have used, always use, to feel the Temple’s loss. At the end of the day when she disappeared, I wondered if she was confused by my apparent neglect. Will she come back this year, and wait for me again? Or does she know – does she even have the capacity to know – that in her future an event so heinous would occur that I would never need her memories again to feel the loss of the *Shechina* in our midst?

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