

The healthcare worker at risk during the COVID-19 pandemic: a Jewish ethical perspective

Amy Solnica,^{1,2} Leonid Barski,^{3,4} Alan Jotkowitz^{3,4}

¹Henrietta Szold School of Nursing, Faculty of Medicine, Hebrew University, Jerusalem, Israel

²Department of Obstetrics and Gynecology, Hadassah Medical Center, Jerusalem, Israel

³Ben-Gurion University of the Negev, Faculty of Health Sciences, Beer Sheva, Israel

⁴Department of Medicine, Soroka University Medical Center, Beer Sheva, Israel

Correspondence to

Amy Solnica, Henrietta Szold School of Nursing, Faculty of Medicine, Hebrew University, Jerusalem 9959113, Israel; amysolnica@gmail.com

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ABSTRACT

The current COVID-19 pandemic has raised many questions and dilemmas for modern day ethicists and healthcare providers. Are physicians, nurses and other healthcare workers morally obligated to put themselves in harm's way and treat patients during a pandemic, occurring a great risk to themselves, their families and potentially to other patients? The issue was relevant during the 1918 influenza epidemic and more recently severe acute respiratory syndrome epidemic in 2003. Since the risk to the healthcare workers was great, there was tension between the ethical duty and responsibility to treat and the risk to one's own life. This tension was further noted during the 2014 Ebola outbreak in West Africa that left hundreds of healthcare workers dead. The AMA Code of Ethics states that physicians are to 'provide urgent medical care during disasters...even in the face of greater than usual risk to physicians' own safety, health or life.'¹ Classic Jewish sources have dealt with this question as well. There is an obligation 'to not stand by idly when your friends life is in danger'; however, the question arises as to whether there are limits to this obligation? Is one required to risk one's own life to save another's? There is a consensus that one is not required but the question open to debate is whether it is praiseworthy to do so. However, regarding healthcare workers, there is agreement for ethical, professional and societal reasons that they are required to put themselves in harm's way to care for their patients.

INTRODUCTION

The current COVID-19 pandemic has raised many questions and dilemmas for modern day ethicists and healthcare providers. In the past century, the world has experienced other pandemics with unimaginable death tolls. The nature of these pandemics places physicians, nurses and other healthcare professionals at great personal risk. Are physicians, nurses and other healthcare workers morally obligated to put themselves in harm's way and treat patients during a pandemic, occurring a great risk to themselves, their families and potentially to other patients?

In the 1918 Spanish influenza pandemic of the last century, physicians continued to care for their patients and an estimated 600 civilian physicians died as a result.² The ethical debate regarding professional risks when treating patients arose again in the literature surrounding the HIV/AIDS pandemic beginning in the 1980s.³ The conclusion was that healthcare workers were not able to refuse to care for patients on the basis of their HIV status.⁴

In more recent times, the world has been plagued by the severe acute respiratory syndrome epidemic in 2003 where estimates of 10% of all

fatalities occurred in healthcare workers,⁵ as well as in the 2014 Ebola outbreak in West Africa that left hundreds of physician and healthcare workers dead.⁶ One of the first reports of the characteristics of 138 hospitalised patients with COVID-19 in Wuhan, China, found that close to 30% of all patients were healthcare workers, presumed to have been infected in the hospital.⁷

The AMA Code of Ethics has undergone many revisions since first being accepted and has expanded to include a section regarding Physicians' Responsibilities in Disaster Response and Preparedness.¹ The physician's responsibilities are to 'provide urgent medical care during disasters,' an obligation that holds 'even in the face of greater than usual risk to physicians' own safety, health or life.'¹ A consensus statement was recently issued by the General Medical Council (GMC), the National Health Services (NHS) and the UK's four Chief Medical Officers.⁸ This statement reiterated the GMC Guidance that physicians 'must not deny treatment to patients because their medical condition may put you at risk. If a patient poses a risk to your health or safety, you should take all available steps to minimize the risk before providing treatment or making other suitable alternative arrangements for providing treatment.'⁹

JEWISH PERSPECTIVE

The classic Jewish sources have dealt with this question as well. There is an obligation 'to not stand by idly when you friends life is in danger'; however, the question arises as to whether there are limits to this obligation? Is one required to risk one's own life to save another person?

The Talmud in Baba Mezia (62a) relates

Two people were traveling on the road and one of them has a bottle of water. If both drink the water, they will both die; if one drinks he will arrive at the town. Ben Petura expounded; it is better that they both drink and die and one of them not witness the death of his fellow traveler. Until Rabbi Akiva came and taught "and your brother shall live with you".¹⁰ Your life takes precedence over the life of your brother.

The argument between the sages, Ben Petura and Rabbi Akiva might revolve around this very issue. Ben Petura maintains that you have to put yourself at risk to save your friend while Rabbi Akiva maintains that you have to save yourself. Jewish law follows the opinion of Rabbi Akiva. Other authorities make the opposite inference from the Talmudic passage; they feel that one is obligated to save oneself only if its definitive that both will die



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if you share the water, but if there is a chance that both will be rescued you must share the water. This parallels a famous debate between English and American maritime law about what to do in an overloaded lifeboat. According to American law, a lottery is acceptable, but according to British law it is 'grotesque,' and all must wait, and either be rescued or die together. Judge Cardozo, in accepting the British decision, writes, 'who shall know when masts and sails of rescue may emerge out of the fog.'¹¹

As we have discussed previously,¹² the Rabbis learnt from this story that saving one life for an extended period of time is preferable to saving two lives for a short time and preference should be given to your life. However, R Yechiel Yaakov Weinberg, a Holocaust survivor, writes regarding the case of the two travellers that 'if one desires to die in order to save his friend he is called holy and pious.'¹³ The implication of this position is that in a modern situation of limited medical resources one can choose to self-sacrifice so other patients may live. Certainly, one can then take a risk to save others. Shatz argues that this position is based on an ethic that highly values the character and motivation of the agents that carry out these actions.¹⁴ This virtue-based ethic would more readily accept acts of altruistic self-sacrifice that one solely based on evaluating the morality of a specific act.

Interestingly, many of the ancient Jewish sources that deal with the issue are written in the context of persecution and anti-Semitism. The Jerusalem Talmud relates the following story:

Rabbi Ami was kidnapped by bandits. Rabbi Yochanan said all we have left to do is to prepare his burial shrouds. Rabbi Shimon Ben Lakish said either I will kill or be killed. I will go and rescue him with force. He went and persuaded the kidnappers to release him.¹⁵

Apparently, the debate between Rabbi Yochanan and Rabbi Lakish revolves around this exact issue, whether one is required to put oneself at risk to save another. Others however maintain, like Rabbi Weinberg above, that Rabbi Lakish was just demonstrating supererogatory moral behaviour. One of the leading modern rabbinic theologians of our time, Rabbi Aharon Lichtenstein discussed the question of how legally binding this kind of behaviour is from a Jewish legal perspective:

Halakhah (Jewish law) itself mandates that we go behind its legal corpus. Where I to follow Fuller's (who distinguished between the morality of duty and the morality of aspiration) example and chart a spectrum running from duty to aspiration, I think that, on Maimonides' view, so called non-halakhic ethics would be a couple of notches higher than for Nahmanides. Even after we have taken due account of the imperative of pursuing "His ways" we are still imbued with a sense of striving for an ideal rather than of satisfying basic demands. Nevertheless, the fundamental similarity remains. The ethic of imitatio dei is not just a lofty ideal but a pressing obligation.¹⁶

Lichtenstein, similar to Shatz, is talking about a higher-level ethic that is based on the concept of imitatio dei, which encompasses character development, ethical sensitivity and supra-legal moral behaviour.

The classic medieval Jewish source that deals with this question is the responsum of the Radbaz¹⁷ who was asked whether one who can save a life by agreeing to sacrifice a limb should do so. The case involves an evil king who told his captive that he will kill his friend unless he agrees to have his arm cut-off. He responded that one is not required to make such a life-altering sacrifice but that doing so would be an act of piety. Additionally, the Radbaz writes that Jewish law is based on the principle of 'ways of pleasantness' and thus could not obligate one to forfeit

a limb. However, he continues that if giving the limb endangers his life (as he assumes), only a holy fool would agree.

This position has obvious relevance for organ donation but for our question as well. The Radbaz apparently is critical of those who are willing to self-sacrifice to save others, calling them 'holy fools.'

This ancient rabbinic debate unfortunately became very relevant during the Holocaust. We have written previously¹⁸ on the tragic moral dilemmas faced by many Jews during this time and on the questions, they asked their spiritual leaders. One of the queries is directly relevant to our discussion. Rabbi Ephraim Oshry was asked whether one is allowed to put oneself at risk to save another. The details of the question are as follows. Jews were rounded up in the Kovno ghetto in Lithuania and taken to a fortress out of town, and Rabbi Oshry was asked whether one is allowed to go to the castle to plea for the Jews release with the knowledge that the visit endangers the life of the supplicant as well. He answers that one is not required to do but one is allowed to do so if one desires.¹⁹

We have seen that from ancient times the question of self-sacrifice has been debated by the rabbinic authorities. There is a consensus that one is not required to do so but the question open to debate is whether it is praiseworthy to do so.

THE HEALTHCARE WORKER AT RISK

The question is slightly different when the issue is physicians endangering themselves to care for patients. One of the leading modern rabbinic authorities dealt extensively with this issue and his responsum is illuminating. Rabbi Eliezer Waldenberg brings a number of reasons why a physician should be required to endanger himself or herself to care for patients with a possible transmittable disease.²⁰

1. According to the Jewish tradition, there is a positive commandment to visit the sick and this applies even to a patient with a communicable disease. Rabbi Waldenberg then makes the inference that if one is allowed to visit the sick with a possible contagious disease then certainly a doctor is allowed to put himself or herself at risk to care for the patient. We would call this an ethical responsibility. This perspective highlights the non-clinical aspects of medical care, such as caring, empathy and concern, which others have called the art of medicine.
2. There is a professional reason as well. Jewish law mandates that a physician use his or her expertise to heal patients and part of this mandate is the obligation to care for all patients, including those with communicable diseases. This reason has much in common with the modern notion of ethical responsibilities that all physicians share as members of the profession. We would call this a professional responsibility
3. Rabbi Waldenberg further writes that the needs of society mandate that a physician care for all patients, even those with transmittable disease, otherwise there would be 'chaos' in the world. He compares this to a soldier who is obligated to go to war for his or her country, notwithstanding the obvious risk involved. We would call this a societal obligation.
4. Finally, Rabbi Waldenberg argues that physicians have a special dispensation to endanger themselves because their livelihood depends on it. This is similar to the dispensation given to other high-rise workers, such as construction workers, and is not particular to medicine. This reason is different than the previous arguments because it does not obligate physicians to take risks but permits them to do so.

Rabbi Waldenberg concludes his discussion by stating that not only is a physician allowed to endanger him or herself to care for a patient but it is a great and exemplary act. What is striking about the responsum is how similar his reasoning is to modern secular approaches that also mandate that a physician takes risk in caring for patients.

A leading contemporary scholar²¹ writes as follows:

A doctor who accepted upon himself or herself all of the professional responsibilities of a physician, cannot say that I do not want to care for a patient with a communicable disease. Because when one agrees to be a physician one also take upon himself or herself the obligation to take certain risks to save patients lives.

We would call this a personal obligation mandated by the oath that physicians take on entering the profession of medicine.

He also makes the important point that hospitals are obligated to provide protective care for their staff.

Jewish law and modern secular approaches based on professional responsibilities obligate physicians to care for all patients even those with communicable diseases. Physicians all across the world are holding true to these responsibilities and leading the fight against COVID-19 at great personal risks to themselves and deserve our support and admiration as well as our commitment to care for them if needed.

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REFERENCES

- 1 AMA code of medical ethics: guidance in a pandemic. Available: <https://www.ama-assn.org/delivering-care/ethics/ama-code-medical-ethics-guidance-pandemic>
- 2 Shanks GD, MacKenzie A, Waller M, et al. Low but highly variable mortality among nurses and physicians during the influenza pandemic of 1918-1919. *Influenza Other Respir Viruses* 2011;5(3):213-9.
- 3 Clark CC. In Harm's Way: AMA Physicians and the Duty to Treat. *Journal of Medicine and Philosophy* 2005;30:1:65-87.
- 4 Malm H, May T, Francis LP, et al. Ethics, pandemics, and the duty to treat. *Am J Bioeth* 2008;8(8):4-19.
- 5 Dwyer J, Tsai DF-C. Developing the duty to treat: HIV, SARS, and the next epidemic. *J Med Ethics* 2008;34(1):7-10.
- 6 Walker NF, Whitty CJ. Tackling emerging infections: clinical and public health lessons from the West African Ebola virus disease outbreak, 2014-2015. *Clin Med* 2015;15(5):457-60.
- 7 Wang D, Hu B, Hu C, et al. Clinical characteristics of 138 hospitalized patients with 2019 novel coronavirus-infected pneumonia in Wuhan, China. *JAMA* 2020;323(11):1061-9.
- 8 Joint statement: supporting doctors in the event of a Covid-19 epidemic in the UK. Available: <https://www.gmc-uk.org/news/news-archive/supporting-doctors-in-the-event-of-a-covid19-epidemic-in-the-uk>
- 9 Good medical practice. General medical council. # 58 published March 2013, updated April 2019.
- 10 Old Testament Leviticus chapter 25 verse 36.
- 11 Cardozo B. *Law and literature and other addresses*. New York: Harcourt Brace, 1931.
- 12 Solnica A, Barski L, Jotkowitz A. Allocation of scarce resources during the COVID-19 pandemic: a Jewish ethical perspective. *J Med Ethics* 2020;46:444-6.
- 13 Weinberg YY, Yad Shaul, j.j. Weinberg and P. Bieberfeld, EDS. (TEL Aviv, 1953), 393.
- 14 Shatz D. As Thyself. The Limits of Altruism in Jewish Ethics. In: Shatz D, ed. *Jewish thought in dialogue: essays on Thinkers, Theologies and moral theories*. Boston, MA: Academic Studies Press, 2009: 326-54.
- 15 Jerusalem Talmud, Terumot 8:4.
- 16 Rabbi Aharon Lichtenstein. *Leaves of faith: the Jewish living*. New Jersey: Ktav publishing house Newark, 2004: 33-56.
- 17 Rabbi David iBn Zimra. *Responsa of the Radbaz, III*, 2020: 627.
- 18 Jotkowitz A. The holocaust and medical ethics: the voices of the victims. *J Med Ethics* 2008;34(12):869-70.
- 19 Oshry RE. *Responsa Mimaamakim section 2*. New York, 1963.
- 20 Waldenberg RE. *Responsa Tzitz Eliezer Volume 9, Chapter 17, paragraph 5*. Jerusalem, 1967.
- 21 Melamed RE. *Responsa Peninei Halakha. volume 2. Chapter 11*. Jerusalem, 2005.