



Should Patients Be Told the Truth About their Illnesses: Jewish Perspectives

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Should patients be told the truth about their illnesses? This dilemma has in recent years been the subject of considerable debate. As little as 40 years ago the vast majority of physicians did not tell cancer patients their diagnosis. At that time a policy of non-disclosure was considered the most benevolent course [1] as it was thought that the truth would be too difficult and painful for the patient to accept. In recent years the pendulum has shifted dramatically. In the last generation it has become the conventional practice for the physician to tell the patient the whole truth about his illness.* Veracity has now become a pillar of medical ethics. Beauchamp and Childress [2] write: "By contrast to [the] traditional disregard of veracity, virtues of candor and truthfulness are among the most widely praised character traits of health professionals in contemporary biomedical ethics."

Several reasons may be given for the new virtue of veracity. Most simply, lying is immoral. As Higgs [3] states: "Medical ethics are part of general morality, and not a separate field of their own rules... Health care professionals are working within the same moral constraints as lay people. A lie is a lie, wherever told and whoever tells it."

Another major reason why disclosure is considered obligatory is to uphold the principle of autonomy. Autonomy has arguably become the single underlying principle that guides modern medical ethics. In order to exercise autonomy – to be able to choose – a patient must have adequate knowledge about his illness. The physician who withholds information denies the patient this fundamental right of free choice. It is also argued that by

withholding information the physician denies the patient the basic respect all human beings deserve.

In addition, the physician-patient relationship is based on trust. Only with trust is cooperation possible. As Beauchamp and Childress [2] state: "Adherence to veracity is essential to foster trust. Lying and inadequate disclosure show disrespect and violate implicit contracts and threaten relationships of trust."

While the virtue of veracity is almost unanimously accepted in modern medical ethics, it is acknowledged even by its staunchest defenders that it is not an absolute value. The diagnosis of cancer and a prognosis of imminent death are examples of cases that may justify withholding information. Higgs [3] writes: "There are some circumstances in which the health professionals are probably exempt from society's general requirement of truthfulness... But a lie requires a strong justification. Lying must be a last resort and we should act as if we were to be called upon to defend the decision in a public debate."

This opinion deserves emphasis because it contrasts with the viewpoint of Jewish law (*halakha* in Hebrew). It is argued that special justification and specific evidence arguing against truth-telling must exist in order to violate this moral imperative [4]. While the utilitarian philosopher Henry Sidgwick justified breaching veracity with "benevolent deception" because the truth may lead to harm (such as depression and suicide), this idea has been discarded by the exigencies of veracity. As Samuel Johnson [5] declared: "I deny the lawfulness of telling a lie to a sick man for fear of alarming him. You have no business with consequences; you are to tell the truth. Besides, you are not sure what effects your telling him that he is in danger may have." In other words, while there may be doubts as to the consequences of truth-telling, there is no doubt that lying is a violation of a basic moral principle.

Truth and lying in Jewish law

It is beyond question that truth is an important value in Jewish tradition. God Himself is described by thirteen attributes, one of which is truth [6]. According to the Mishna*, truth is one of the

* Being educated in this convention led me to an unfortunate incident as a young surgeon. After operating on a patient with a recurrent rectal cancer, she returned to me six months post-operatively with widespread metastases. I told the patient, a woman in her eighties, that there was no treatment that could be offered and there was nothing I could do to help her. If I had punched her in the face, I could not have made a stronger impact. She walked to the corner of the room behind a table, as if trapped. She was broken. She died soon after. This experience has lingered in my mind ever since, prompting my inquiry into the issue of telling patients the truth.

* The Mishna is the oldest and most authoritative corpus of Jewish law. Written 1,800 years ago in Israel, in Hebrew, it is the basis of most subsequent halachic discussion

three pillars on which the world stands [7]. The Gemara* says one should not even think one thing while saying another, as this is considered lying [8]. It is a direct Torah prohibition to speak lies, as it is written, "One must keep a great distance from speaking lies" [9]. It is considered a profanation of God to speak lies [10].

But, while truth is an important principle in Jewish law, one hastens to add that speaking the truth is not an absolute value. There are well-defined limitations to the mandate to tell the truth. The well-cited example that permits lying is for the sake of peace. The Gemara writes: "It is permissible for man to change the facts for the sake of peace" [11]. This principle is derived from incidents in the Torah. Joseph's brothers claimed that their father Jacob, before his death, commanded Joseph not to sin against them [12]. However, this was a lie. Jacob was not concerned that Joseph would ill-treat them and therefore had not made such a demand. Nevertheless, Rashi** says this claim by the brothers was permissible because they were attempting to promote peace between Joseph and themselves.

The Gemara [11] teaches that so great is the pursuit of peace that even God changed the truth. This occurred when Sarah was informed that she would bear a child. She responded with incredulity: "And my husband is so old!" When God recounted her reaction to Abraham, He paraphrased her, by saying, "And I (Sarah) am so old!" Rashi explains that thus is the importance of keeping peace between a husband and wife [13].

While promoting peace is one exception to the obligation to tell the truth, it is not the only one. In commenting on the above-quoted Gemara that states that changing the truth is obligatory for the sake of peace, the commentator HaDerisha*** states that preserving all matters of Torah and commandments are considered as pursuing peace [14]. The Gemara explicitly discusses the problem of whether one may give false testimony under threat of death. It states: "Go and sign testimony [falsely] so you will not be killed, as nothing is violated for the preservation of life except for the prohibitions of idolatry, sexual promiscuity, and murder" [15]. Here we see the crucial principle that if it is a matter of saving a life, one is not only allowed to lie but is obligated to lie.

Disclosure of information to the sick: formulating the halakhic question

Given that truth-telling is a positive commandment, the halachic issue is whether there are any reasons that would justify it being overruled. In the medical setting there are certainly such justifications. The overriding halakhic priority in medicine is caring for the ill and preserving life. If disclosure of information will cause harm to the patient, then one will be violating the stronger principle of preserving life. In this setting, lying would be obligatory.

While modern science debates the psychological influences on health and disease, in rabbinic literature it is almost axiomatic that mental distress can cause illness and even death. Rabbi Moshe Feinstein, one of the leading halakhic authorities of the last half-century, writes in a responsa on an incurable patient that it is not permissible to inform the patient of his condition. His concern is that the knowledge of incurability will cause great mental distress and could hasten the patient's death. It must be emphasized here that in Jewish law, hastening death is considered murder and is prohibited at all times, regardless of the underlying condition of the patient. Rabbi Feinstein writes that if an incurable patient knows that the doctor has given up all hope, or if he suspects he is being abandoned, then his condition is likely to worsen. Anything contributing to this sense of abandonment is thus prohibited [16].

So strong is the concern that anguish may cause physical deterioration that the Shulhan Arukh* states: "a sick person whose relative dies is not to be told of the death lest he become greatly distressed [17]. The Be'er Hetev (a commentary on the Shulhan Arukh) explains that such information may cause his death [18].

The concern that disclosing information may itself cause death is outlined for us by the Bible. In the Book of Kings, the prophet Elisha is instructed by God to "tell [the Assyrian] King Ben Haddad that you (Ben Haddad) will not live, you will surely die." This verse has a paradoxical message. The word "will not" is written with the Hebrew spelling lamed aleph ("no"), while the masoretic text instructs us to speak the word as lamed vav, meaning "to him." The effect is to reverse the meaning of the sentence from "say he will not live," to "say to him he will live." The Metzudat David (eighteenth century commentary on the Bible) comments that the double meaning teaches us that while the truth is that he will die, Ben Haddad is to be comforted, and be told he will live. The Ralbag (medieval commentary on the Bible) comments that if Ben Haddad were to be told the truth, he could die from fright. He continues by saying that God's instruction to Elisha to tell him he will live is proper because in this way "the truth of the prophecy will be confirmed" [19]. In other words, disclosing the information to Ben Haddad is enough to kill him and thus he would be dying from the active intervention of Elisha, rather than by the other causes that were prophesied. By telling Ben Haddad that he would die, Elisha would be turned from a passive messenger of information to an active agent of death.

While there is great concern that disclosing information may cause harm, halakhic analysis also requires us to look at the possible benefits of truth-telling. It is therefore relevant to look at the positive commandment of confessing sins before death. The Shulhan Arukh states: "He that is sick and close to death should be told to confess his sins...The reward for confession is life – all who confess have a portion in the World to Come" [20]. The Shlah**

* The Gemara, otherwise known as the Babylonian Talmud, is the vast text written 1,500 years ago and is largely based on the Mishnah, which preceded it

** Rashi – the acronym for Rabbi Shlomo Yitzchaki, 11th century France – was the preeminent medieval commentator on the Bible.

*** The Derisha is a principal commentator on the Tur Shulhan Arukh – one of the primary medieval works of Jewish law.

* The Shulhan Arukh, or the Code of Jewish Law, written by Rabbi Yosef Caro in the 16th century, and based on such previous works as the Tur Shulhan Arukh and Maimonides' Mishna Torah, is considered the most authoritative of all modern halakhic works.

** The Shlah, the Hebrew acronym for the Two Tablets of the Covenant, is a 17th century work of Jewish law and philosophy.

reminds us that the commandment to visit the sick consists of three requirements – attending to the patient's physical, monetary, and spiritual needs. His physical needs include making sure he is getting all the necessary medical treatment. Monetary needs may involve helping the patient obtain necessary funds for himself or his family. Regarding the needs of the soul, "If one is to be kind to the sick, one must see to it that he confess his sins thoroughly" [21].

It follows from the obligation of confession that a patient must be sufficiently informed about the gravity of his illness. However, there is a debate among authorities regarding when confession should be performed. In spite of its great importance and its eternal reward, confession does not override concerns of endangering the life of the patient. The Tur Shulhan Arukh writes that when the patient "is sick and close to death, say to him, 'confess' ...In order that his heart is not broken (from the knowledge of imminent death), say to him that many confess and do not die and many who do not confess die" [22]. As can be seen here, the confessional prayer is said in a way that leaves hope. The Shulhan Arukh cites the following prayer as the proper confessional, "May it be Your will that You heal me completely, but if I die, may my death be an atonement on all sins and iniquities that I have done before You" [23]. As indicated by the wording of the prayer, one is required always to maintain hope of rescue. The Gemara teaches that a confession is also said before judicial execution. "When he is ten amot (approximately 20 feet) from the execution chamber, they say to him, 'Confess'. And so is the way of all who are dying, because all who confess have a portion in the World to Come" [24]. However, here too, there is hope that he will be rescued. The Gemara teaches that even "when the sword is resting on your neck, do not give up hope that mercy will be upon you" [25].

Maintaining hope is so important that both the Shach and the Bach (commentators on the Shulhan Arukh and the Tur, respectively) hold that confession is only said when one is in the process of dying. According to the Shach, confession is not done earlier lest it cause a broken heart. "Even though many confess under much less serious circumstances, when one is sick and he knows his life is in danger, [confession] is likely to cause a broken heart. So, confession should be delayed if he is not yet dying. [However,] for he who is dying, if he does not confess now there is a concern he will die without confession" [26]. But even for those who are dying, he is still not told explicitly of his impending death, lest the information cause depression and a hastened death.

Rabbi Gedalia Aaron Rabinovich asks: if we are so concerned that confession could cause depression, why do we encourage confession at all, even before death? After all, even a moment's hastening of death is forbidden by Jewish law. He answers that all agree that confession is a benefit that must be considered. However, if there is concern of breaking one's heart, then confession is forbidden, even as he is dying, lest this hasten his death [27].

Some authorities argue for early confession. Their rationale is instructive and consistent with the underlying principles outlined here. The Shlah writes that it is urgent to confess early and request forgiveness from God. The sick person should actually be told he is in danger and his heart should be broken in order to promote sincere regret and confession. This can only effectively be done

early in his illness when he still possesses the mental faculties to perform proper repentance. It is the hope, the Shlah continues, that such intense confession will lead to healing [21]. In following the Shlah, the Ma'avar Yavok (anthology of laws, customs and legends relating to the soul after death) writes that saying confession lessens the severity of the illness. In the language of the Zohar (regarded as the central book of Kabala), confession sweetens and lessens the anger of the judgment that has been passed. The Ma'avar Yavok writes, "The confession removes the accuser from upon himself and nobody is left to pass judgment except the Merciful One Himself" [28]. The Ma'avar Yavok recommends the following confession: "The suffering of my body should be an atonement for my soul, and may You erase [the suffering] in Your abundant mercy and not cause any further pain."

While the dispute is clear between early confession or confession only before death, the concerns are similar. The Shach and the Bach are concerned that confession will cause hopelessness and hasten death. The Shlah and the Ma'avar Yavok argue that confession will promote healing. On both sides, there is a premise that hopelessness is forbidden.

Another incident from Kings II helps to frame the dilemma of whether the truth should be withheld or whether it may be beneficial to reveal it.

King Hezekiah fell deathly ill. The prophet Isaiah said to him, "Thus says God, 'command your house, you will not live'." And Hezekiah leaned his face on the wall and prayed to God and said, "Please, God, remember, please, that I walked before You in truth and with a full heart and it was good in Your eyes what I did." And he cried a great cry. Isaiah had not yet left the middle court when God said, "Return to Hezekiah and say, 'I heard your prayer and saw your tears and thus I will heal you' " [29]

The incident is discussed in the Gemara. Isaiah said to Hezekiah, "what was decreed is decreed on you." And Hezekiah said to Isaiah, "Cease your prophecy. Even if the sword is laying on your neck, do not give up hope that there may still be mercy on you" [25]. The incident is recounted in Kohelet Rabbah (a volume of rabbinic wisdom literature called Midrash, written around the time of the Talmud).

Hezekiah said to Isaiah, "Isaiah, the universal custom is to visit the sick and say to him, 'From heaven, may mercy be upon you'." And the doctor goes to the patient and says, "Eat this food, do not eat this food. This you should drink, this you should not drink." Even if he sees him dying, you do not say, "order your household," so as to weaken the patient's spirit [30].

Hezekiah thus rejected the appropriateness of disclosure. On the other hand, by being given the information, Hezekiah repented and this resulted in his healing.

What and how to tell

There can be no rigid halakhic ruling on disclosing information. The decision depends on the individual patient. Professor Shimon Glick [31] writes: "the function of the doctors is to diminish suffering and to encourage and help the patient fight his illness. Therefore, we

ask ourselves this question: will we reduce or increase suffering of the patient by not revealing the truth of the illness.”

Rabbi Yitzchak Silberstein speaks for the majority rabbinic opinion (see also Rabbi J. D. Bleich [32]), by assuming that disclosure will harm until proven otherwise.

If there is concern that it may harm...then he is not to be told. [This is the case] even if there are other reasons that justify telling, such as arranging the affairs of his money and property and performing repentance (confession). These reasons do not override the concern of bringing harm to a patient by causing a broken spirit and thus hastening death. Our opinion is it is preferable to be silent and conceal the truth except for those circumstances that we know for certain they will not cause harm [33].

The contrast with Higgs' approach that is quoted above must be emphasized. Higgs' assertion is that truth-telling is so important that one must prove that disclosure will harm. In other words, the burden of proof is to show harm. This elevates truth-telling to a value higher than halakhah grants it. The crux of the different approaches is which is a higher value – truth telling or danger to life.

If we are concerned ultimately with what is best for the patient, are there circumstances when disclosure may be important for therapy and, thus, would mandate telling the truth? Because of the potential damage that disclosure may cause, halakha only allows for disclosure of information if it is of practical benefit, i.e., that it will promote healing or alleviate suffering. The idea that patients are owed the basic right to know has no basis in Jewish law. It is not considered a benefit if disclosing information is done only for the purpose of preserving the principle of respect for the human being and his autonomy. On the other hand, if disclosing the truth encourages the patient to fight the illness and cooperate in his therapy, then the physician should disclose [30]. In the case of cancer, it is often difficult to conceal the diagnosis. As Professor Abraham B. Abraham [34] writes, “In fact, many cancer patients require radiation therapy or chemotherapy. [In order to undergo such therapy, the patient must obviously be told his diagnosis... Moreover,] if the diagnosis is not revealed to the patient in a direct way, along with the hope that there is therapy, he is [likely] to think that his condition is extremely bad.”

Disclosure should not be considered an all or none affair. As Professor Glick [31] writes:

Sometimes [disclosure] involves the complete truth, most of the time partial truth, and sometimes complete lies...It should be done in stages, according to the ability of the patient to understand. It is forbidden to give an expected time of death, [or] even say “you are going to die.” An opening of hope must always be given, and the doctor must promise his support. [As well,] the medical staff will always be there to help, no matter what his condition. It is important for the physician to examine himself and examine what he wants to tell the patient and whether he wants to tell the truth or falsehoods for the patient's sake or his own. It is natural that the physician wants to flee from a patient who is dying. We hate defeats and pursue successes.

What about the situation when the patient is terminal and there is no therapy that can be offered? In keeping with the principle that hope must always be maintained, disclosure of a terminal prognosis or imminent death is forbidden. It is here, particularly, that rabbinic opinion endorses lying. The priority must be the care of the patient. Therapy must be devised that makes the patient comfortable. Every effort must be made not to give the impression of abandoning the patient. He must be given hope. If this requires placebos or other means so that he does not lose hope, then this must be encouraged [35,36].

We may summarize by stating that the majority rabbinic opinion is that if the truth will cause distress, it should not be told. This most directly applies to revealing prognosis. Essentially all rabbinic opinion holds that a patient should not be told he is incurable or he will die. This is really talking about prognosis. To the extent that diagnosis also causes distress, it would also be problematic. But there is no necessity that diagnosis brings distress. While in the past the diagnosis of cancer was always interpreted as a death sentence, this concept must be eliminated. There are many times that it is mandatory to reveal a diagnosis of cancer because therapy requires patient cooperation. However, the physician must make it clear that this does not mean he or she is dying. It is well known in the medical community that apparent benign diseases such as congestive heart failure and emphysema can carry worse prognoses than many cancers, but they do not carry the same level of fear. Conversely, with progress in the treatment of cancer, it is often not a terminal illness but a chronic disease. Diagnoses with fearsome connotations must be revealed with hope and in context, vis a vis other chronic illnesses. This is part of the role of physicians as teachers to their patients. While the majority of rabbinic opinion is that incurability cannot be revealed, there is no direct prohibition from revealing a diagnosis.

To reiterate, physicians have no authority to determine that a patient is incurable. Rabbi Avraham Yitzchak HaCohen Kook writes that medicine has a presumption of doubt. “The physician's opinion does not fulfill the definition of certainty. All illness carries with it the possibility of recovery. Even ‘when the sword is laying on the neck it is forbidden to give up hope of rescue’. Therefore, the ruling is to keep hope” [37]. The Netzer Matai (halakhic commentary) adds, “Even if the doctor assesses that there is no medicine for his illness, in all cases there is a possibility of healing, because a certain percentage of patients that appear to be hopeless will recover with no [scientific] explanation” [38].

Disclosure of non-life-threatening illnesses

In all areas of medicine the physician must be extremely vigilant in the manner in which he talks to his patients. Patients are, by definition, in an extremely vulnerable and fragile position. The doctor's words carry tremendous power and may often lead to unintended consequences. In an enlightening article, the late Editor-in-Chief of the *New England Journal of Medicine* [39] wrote:

Even if a physician takes pains to use appropriate language, he may still lack empathy if he is not acutely sensitive to the emotional state of the patient...Distraught by anxiety, fear, and perhaps suspicion, the patient hears the sound but not

the meaning of words; reassurances that cancer is an unlikely diagnosis, and a barrage of tests to prove this point, may convince the patient that the opposite is true...Advice that antihypertensive drugs or insulin are in order, possibly for a lifetime, may give the patient the idea of incurability. Even advice on smoking and overeating may elicit negative instead of positive results in the susceptible.

In other words, even in an apparently non-life-threatening situation, the doctor's words are very potent and should be carefully weighed. Most physicians are aware that clinical situations that may not initially appear very serious may quickly deteriorate to great danger. This is particularly true in the realm of mental illness where disclosure of a diagnosis can be particularly devastating. It is this danger, inherent in the practice of medicine, that most concerns the rabbis. Moreover, even if disclosure may not lead to life-threatening danger, if it leads only to a sense of abandonment and depression it must be strongly condemned. This is so because such emotions are by definition detrimental to health even if they do not necessarily lead to a measurable danger to life.

We may conclude, then, that the halakhic viewpoint holds that while disclosure does have a place, it is only for specific practical purposes and not as a right or value in itself. This is so because of the overriding value of preserving life. But, even in those many instances where disclosure is made, abandonment and hopelessness remain absolutely forbidden.

Even those secular ethicists who defend veracity emphasize the importance of telling the truth with compassion. This underscores the principle that when disclosure is made, it must be accompanied by assurance of ongoing support. In practice, the difference between the secular and Jewish approaches may not be so great. But there will be times when the different approaches will prove critical. In the secular approach, disclosure has a higher moral weight because of the accompanying imperative of the right of autonomy. The Jewish approach dictates that the physician be guided by what is best for the patient's physical and spiritual well-being, and all decisions about disclosure must be made with only these concerns in mind.

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*Do I contradict myself?
Very well then I contradict myself.
(I am large, I contain multitudes)*

Walt Whitman (1819-1892), American poet