

The Dying Patient Act 2005: Law, Ethics and Medical Practice

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The Israeli Parliament enacted the Dying Patient Act in 2005. Its aim was to regulate – subject to the principles of patient autonomy and sanctity of life – the provision of medical treatment given to dying patients, in a manner which respects, under some conditions, the patient's wishes not to receive life-prolonging treatment. The Act and its regulations established a decision-making process regarding dying patients, when they are faced with the last stages of their terminal illness.

Despite the importance of this Act and the scholarly critique it has encountered, its application in practice has not been comprehensively investigated. In reliance on face-to-face, semi-structured qualitative interviews with doctors who provide advice and treatment to dying patients, this Article examines whether the bioethical principles set in the Act and the decision-making process it establishes are applied in practice by doctors when they make treatment decisions regarding dying patients. It focuses on five aspects: informing patients that they are dying and finding out their preferences regarding life-prolonging treatments; making decisions about withholding and withdrawal of artificial respiration; the involvement of family members in the decision-making process; doctors' familiarity with the Act and its main legal rules; and doctors' personal views regarding the bioethical principles involved in this type of decision process (autonomy, sanctity of life, beneficence and non-maleficence).

The findings indicate that there are discrepancies between doctors' conduct and practice and the decision-making process set by the Act. These arise mainly because when doctors are involved in end-of-life decision making they are influenced by several factors, of which the legal framework is only one. Another important finding is that doctors' conduct reflects a relational autonomy approach which is dissimilar to the individualistic approach reflected by the Act.

In the last part of the Article, we examine the implications of the study, arguing that its findings indicate a need not only to rectify the Act but also to provide better education and skills to doctors in this important area.