End of Life Planning
Frequently Asked Shaylos

Isn't it a bad omen to even be learning about these issues?
Not at all. It is important and a mitzvah. Rav Elyashiv expressed that it is a segula for a long life.[1] Human beings are given the gift that they age progressively which means that generally there is time to plan ones affairs spiritually, emotionally and financially. A person who does not should be prompted to.[2]

If I want to sort out my end-of-life affairs from the Jewish perspective, what should I be thinking about?
Here is a checklist of items one should consider addressing. Below we will address the different items in more depth.

- ☐ One should complete the Halachik Health Care Proxy (also known at the Living Will).
- ☐ One should ensure one's legal will is up to date and in order.
- ☐ One should set up the Halachik Will.
- ☐ One should ensure one has bought a plot of land for burial and that the information has been updated and is available to family members.
- ☐ One should ensure that there is money set aside for burial arrangements. If one has the intention to use a certain funeral home, it would be a good idea to speak to them and set things up now to diminish later confusion.
- ☐ One should try to put one's social affairs in order and actively ensure that one has done the best one can to resolve old disputes.

What is the Halachik Health Care Proxy?
The Halachik Health Care Proxy is a document which appoints another person to be in in charge of making medical decisions on one's behalf if one finds oneself in a state in which one cannot make decisions. This will in consultation with a Rabbi of choice who will best represent one's wishes and follow Halacha. This document is legally binding.

Where can I find that document?
The RCA-Ematai form can be found at https://drive.google.com/file/d/1xaJhi4poaDQAgw9obkTPIZEgzlE0qqFC/view?usp=drive_link

The Aguda form can be found at https://agudah.org/agudah-legal/areas-of-activity/health-and-end-of-life-issues/

If one wants to find out more and one wants to get an EMES card to make sure this information is readily available on you at all times, please see https://nasck.org/emes-card/

How does this differ from the regular Advanced Directive document?
It is always recommended to set up the legal health care proxy in the case one cannot make decisions. Sometimes one will receive the suggestion to sign the local State Living Will and with it the Advanced Directive which gives directions about end-of-life care.
This is a good idea for the general population but for Jew there are a few concerns. The first is that one cannot give all the directives about end-of-life care ahead of time because of the complexity of each situation. Instead, one can appoint a health care proxy and a Rabbi who will work with the health care proxy to make the necessary decision based on the situation that may occur.

Why can I not just decide in advance about my advance care directive?
The truth is that the process of aging and end-of-life is unpredictable, and the issues are never the same in any given case. There are several guiding principles, but a lot will depend on the specifics of the situation which is what makes it difficult to have specific decisions to apply in every situation.

How will my proxy and Rabbi know what I want if I myself cannot make the decisions now?
It will be helpful to get a sense of one's wishes about how one would like to be treated at the end of one's life if one will not be able to speak at such time. For this, it will be helpful to look through pages the RCA-Emtai Conversation Guide (https://drive.google.com/file/d/13zJS-

[1] Sefer Ahava Achva Veshalom, page 90
[2] Gesher Hachaim 1:4

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This section asks the patient important questions about balancing pain, prolonging life, lucidity and so on. This is not a legally binding section, but it helps one address some difficult issues that might arise. It is important that these ideas be discussed with one's Rabbi, doctor and health care proxy **now** so one's general guidelines are clear. Please note that situations may call for interventions which are required by Halacha but not exactly what one might have optimally wanted.

What can we not decide on now?
When one is not in the specific situation, one cannot decide about whether or not to continue medication, dialysis, life support, breathing machines and various medical interventions. These are dependent on many factors including pain, patient's wishes, if it is terminal, how much time might be left, lucidity of patient... It is for this reason why it is so important to have a health care proxy working with one's Rabbi to help if one needs to make those decisions.

What are some of those guiding principles?
Judaism values the sanctity of human life. That means that being alive in this world is of infinite value. Great measures should be taken to preserve life and certainly one should not take any measures which will shorten life. This may be the case even when palliative care doctors or social workers advise removing all treatments because of the lack of quality of life.

Is this at all costs? Does quality of life not feature?
There is a school of thought in halacha that sanctity of life must be preserved at all costs. In this line of thinking one would need to take all life saving measures to extend life. That would mean even in the face of discomfort or continued pain.
However, a majority of the poskim agree that sanctity of life is of great importance but may be tempered by great suffering of the patient. In such cases there would not be an obligation to go to all measures. The application of this is complex and situation-dependent which is why one needs a competent Rabbi and a health care proxy.[3]

Does patient autonomy matter?
One school of thought in Judaism understands that halacha is objective when it comes to end of life and is not dependent on the specific patient.
Others understand that the patient's wishes and ability to deal with pain do feature as a variable in halachik decision making, although do not give the patient free reign to make decisions about ending life carte blanche.

When can certain treatments be relaxed?
Under 3 conditions[4]:

a. The patient is 'chayei sha'a' – end of life.
b. The patient does not want to continue to live under such circumstances.
c. The medical condition and pain are such that most people would not want to extend their lives under such circumstances.

What is 'chayei sha'a'?
End of life is defined as being when:

a. A person has a terminal illness without any medical or technological chances of recovery or stopping the advance of the illness.
b. Life expectancy is less than 3-6 months.[5]

What if the patient is unconscious?
There is a debate in halacha whether the patient who is unconscious but is not suffering is treated as someone suffering or not. It is also very difficult to ascertain whether such a patient is suffering or not.

What types of treatment may be part of the conversation whether to continue or not?
Interventions which are cyclical (e.g. IV, dialysis, etc) may not need to renewed for terminally ill patients, based on: prognosis, patient's intent, degree of suffering and lucidity. In halacha there is a difference between withdrawing and withholding treatment. It is easier not to renew a cyclical treatment under certain conditions, than removing a treatment. A proficient Rabbi should be consulted in conjunction with the primary physician.

What types of things may not be removed?
Although at certain points, aggressive medication may be suspended, one cannot remove nutrition and liquids unless they become a danger to the patient. This is even for a person who is at the end of their life.

Do secondary infections need to be treated in a terminally ill patient?
This is a matter of great debate and a proficient Rabbi should be consulted in conjunction with the primary physician.

What are factors which will not have a bearing on end-of-life decisions?
The following have no halachik bearing on these decisions: socio-economic background, intellectual capacity, age or quality of life concerns.[6]

Can I sign a DNR?
The reason why one is recommended to sign a DNR is to avoid excessive pain and the compressions which may be

[3] Harefua Kehalacha X:1:1:א
[4] Harefua Kehalacha X:1:1:ה
[5] Harefua Kehalacha X:1:1:ב
[6] Harefua Kehalacha X:1:1:ו

needed for resuscitation. These measures could break the ribcage and just prolong a suffering life at the end. However, this is not a justified reason to sign a DNR right yet. Many times, a healthy patient may undergo trauma and need a resuscitation which will save them and give them years more of life but if there was a DNR, they would have been left to die.
Moreover, often a DNR has the social impact of a health care facility being less careful about other treatments as well. For this reason, a patient should NOT sign a DNR when they are still relatively healthy and certainly not when they are at home and not hospitalized. When a patient is terminally ill and very close to the end, there are occasions it can be signed and that should be in consultation with the team of doctors, health care proxy and Rabbi.

This is more complex than I expected. What else can I do to get better prepared?
It is a good idea to do more research to find out more about this important time in life.
https://www.nasck.org/resources-education/

Can I sign up for organ donation?
Organ donation is a difficult question in halacha. While the value of saving another life is paramount, there is a concern that harvesting organs from a brain-dead patient may constitute murder and therefore would not qualify to save another's life. There is an extensive debate as to whether brain-death is considered death in halacha. This is a situation when the brain stem has already died but a person is breathing on a machine. If the machine is removed the heart will stop. One must harvest organs while they still have a blood supply which is why it is done in such a situation when a person is considered legally dead. There is an opinion in halacha that death is determined when the heart stops and the there is an opinion in halacha that death is determined when a person stops breathing. Rav Ovadya Yosef and Rav Amar are also of the opinion that a brain-dead patient is considered dead. On March 24, 2008 there was a vote in the Knesset to consider brain death as death and allow organ donations from the deceased. Rav Amar came with Rabbi Steinberg and a few other professors to the house of Rav Ovadya. Ha'Gaon Rav Amar shlit"a related in a letter that was signed by Rav Ovadya that brain death, i.e., when the brain, including the brainstem, dies in an irreversible manner, it is considered halachic death. Rav Ovadya told Eli Yishai (the minister at the time) to vote allowing the law because brain death is halachic death. The יהדות התורה party led by Rav Elyashiv was vehemently against the law because he sided with the ציץ אליעזר that brain death is not death and donating an organ is considered murder.[7] The law was passed by the Knesset. Two days later, on March 26, Rav Amar asked Rav Ovadya if it was permitted for a brain dead 18-year-old girl to have her organs donated, and Rav Ovadya responded in the affirmative. See here for written documentation of the meeting with Rav Ovadya: bit.ly/RavYosef-Braindeath. The opinion of Rav Moshe and Rav Ovadya Yosef is the official view of the Chief Rabbinate of Israel, though the Rabbinical Council of America and Rav Schachter forbid organ donation.[8]

What is the Halachik Will?
The Halachik Will is a document which helps ensure that the legal will you have drawn up does not contradict the Halachik inheritance system.

Where can I find that document?
The Halachik Will can be found at
https://www.rabbis.org/pdfs/Halakhic%20Will.pdf
All of the forms have clear information laid out about the mechanics of the process.

What is viduy?
Viduy at the end of life is acknowledging the faults in one's life and acknowledging that the process of death should be an atonement. This is noted in the Mishna in Sanhedrin 43b

ואם אינו יודע להתוודות אומרים לו אמור תהא מיתתי כפרה על כל עונותי ר' יהודה אומר אם היה יודע שהוא מזומם אומר תהא מיתתי כפרה על כל עונותי

And if the condemned man **does not know how to confess,** either from ignorance or out of confusion, **they say to him: Say** simply: **Let my death be an atonement for all my sins. Rabbi Yehuda says: If** the condemned man **knows that he was convicted by the testimony of conspiring witnesses,** but in fact he is innocent, **he says: Let my death be an atonement for all my sins.**

How much is said?
Preferably one should say the full viduy like one does on Yom Kippur including ashamnu and al cheit. If that is not possible, the most basic formulation should be:

"מיתתי תהא כפרה על כל עונותי"

May my death be an atonement for all my sins.[9]

Isn't going to scare the person saying it?
One should encourage the sick person to say it themselves when they can and note that many have said viduy and recovered and many have missed it and not recovered.[10]

[7] See here for article in בחדרי חרדים after the law was passed: https://www.bhol.co.il/news/67478

[8] See Journal of Halacha and Contemporary Society, XVII (Fall 1989) and www.rabbis.org/pdfs/Halachi_%20Issues_the_Determination.pdf

[9] Shulchan Aruch YD 338:1

[10] Shulchan Aruch YD 338:1

Is there anything else which is said?
Yes, there are many other tefillos which are associated with this passage?
Yes, there are additional tefillos to be included. Please ask Rabbi Trump for the texts. Included in these are: Tehillim 121, 130, 91, Yigdal, Adon Olam, Ana Bekoach and Al Kein Nekaveh.

What else can I do?

a. It is important to be present with the sick person. Your being there, even without saying much, is of great value to a person at a dark time with an unclear future.
b. It is important also to take the time to sing with the patient. Think of songs they would enjoy around the Shabbos table and at family gatherings. Music has a deep way of penetrating even at times when lucidity is distant.
c. Take time to say all the things you would want said like how much you love them and asking for forgiveness for things not addressed.

Do I need to speak to the funeral home and cemetery before the end of life?
It is not necessary to make the arrangements before the end of life. However, it is a good idea to find out the following details:

1. Where is the plot which was bought for one's loved one?
2. Where are the papers so they will be accessible?
3. Was there a funeral home they set up an arrangement with?
4. If not, which funeral home would one want to use and does one have their number?

If I see that my loved one is in the process of passing away, what should I do?
Most importantly one should be present and be a voice of strength and calm with them. If one sees that they are dying, one should say the following pesukim as the soul departs:

Once

שְׁמַע יִשְׂרָאֵל ה'אֱלֹקינוּ ה'ן אֶחָד:

Hear, O Israel! Hashem is our God, Hashem is one

Three times

בָּרוּךְ שֵׁם כְּבוֹד מַלְכוּתוֹ לְעוֹלָם וָעֶד:

Blessed [is His] Name, Whose glorious kingdom is forever and ever.

Seven times

ה' הוּא הָאֱלֹקים.

Hashem is God

Once

ה' מֶלֶךְ ה' מָלָךְ ה' יִמְלֹךְ לְעֹלָם וָעֶד:

Hashem is King, Hashem was King;
Hashem will be King forever and ever.

Is there anything to say right afterwards?
Yes. After the soul departs on should say the following:

ה' נָתַן וה' לָקָח יְהִי שֵׁם ה' מְבוֹרָךְ:

Hashem gave, Hashem took. May His name be blessed.

הַצּוּר תָּמִים פָּעֳלוֹ כִּי כָל־דְּרָכָיו מִשְׁפָּט אֵ-ל אֱמוּנָה וְאֵין עָוֶל צַדִּיק וְיָשָׁר הוּא:

The Rock is perfect in action. All His ways are just. A faithful God and there is no corruption. He is righteous and upright.

What do I do first if/when my loved one passes away?
When a person passes away it is important to ensure the following issues are addressed:

a. The hands should be opened
b. The mouth and eyes should be closed
c. The arms should be straight alongside the body
d. The legs should be straightened
e. The body should be covered by a sheet
f. If one is at home and it is possible, the body should be lowered to the floor, feet facing the door
g. If one is in the hospital, the bed should lowered to the flat position and lowest setting
h. One should instruct the nurse not to remove any lines from the body

When something happens, who do I call first?
The first call is to the Rabbi who will help walk through the necessary steps.
The second call is to the funeral home which will initiate a funeral director and shomer to pick up the niftar/nifteres. They will also be in charge of contacting the cemetery to open up the plot.

I know that a tahara needs to be done. How do I arrange that?
A tahara is the processing of ritual cleansing the body and preparing it for the final passage. It is

done extremely carefully and in a truly honorable fashion. One does not need to arrange that. That is arranged by the Rabbi in concert with the funeral home. Sometimes it is performed by the shul's chevra Kadisha and sometimes by the town's chevra Kadisha. The Rabbi will confirm those arrangement.

Do we need a shomer?
The halacha is that someone should be with the deceased all the time from the time of death until the funeral. This is to protect the body from rodents[11] and for kabbalistic reasons.[12] This is even true in a morgue. That would mean waiting with the deceased until the funeral director arrived. Usually, the Chevra Kadisha will help provide but one should inquire about this.

Is there anything special I should do in the house the person passed away in?
Yes. Any open liquids at the time of passing should be poured out. This is a way of subtly conveying the passing and also because there is impurity in the wake of death.[13]

What can we not do in the presence of the deceased?
One should be careful not to talk about things unrelated to the deceased or Divrei Torah in the presence of the deceased.[14]

[11] Chochmas Adam, Matzeiva Moshe sk 14
[12] Igros Moshe YD I:225, Maavor Yabok Sfas Emes 24
[13] Shach YD 339 sk 9
[14] Shulchan Aruch YD 340:16