



1. Canadian Medical Association Code of Ethics (1868), Articles 1:1, 1:4, 2:6
1:1 - Physicians should unite tenderness with firmness, and condescension with authority, and thus inspire their patients with gratitude, respect and confidence.
1:4 - A physician should studiously avoid making gloomy prognostications, as they savour of empiricism, and magnify the importance of his services to the treatment of the disease. But he should not fail, on proper occasions, to give to the friends of the patient timely notice of danger when it really occurs; and even to the patient himself, if absolutely necessary.
2:6 - The obedience of a patient to the prescriptions of his physician should be prompt and implicit. He should never permit his own crude opinions as to their fitness to influence his attention to them. A failure in one particular may render an otherwise judicious treatment dangerous, and even fatal. This remark is equally applicable to diet, drink and exercise. As patients become convalescent they are very apt to suppose that the rules prescribed for them may be disregarded, and the consequence, but too often, is a relapse.
2. CPSO Policy #4-05 (<https://www.cpso.on.ca/uploadedFiles/policies/policies/policyitems/Consent.pdf>)
Respect for the autonomy and personal dignity of the patient is central to the provision of ethically sound patient care. Through the translation of these ethical principles to law, the Supreme Court of Canada has confirmed the fundamental right of the individual to decide which medical interventions will be accepted and which will not.

A History of Jewish Tradition and World Opinion

3. Ramban (13th century Spain), Torat ha'Adam, Shaar haMeichush, Inyan haSakkanah
Where the doctors are of equal numbers, we follow the more wise and expert... But where it is two versus one, since all of them are doctors and they know this craft, the position of one is nothing against the two. But where he is greater in wisdom, we are concerned for his words to be strict even against a majority...
4. Rabbi Yaakov Emden (18th century Germany), Mor uKetziah Orach Chaim 328 **וכן אם רופא אמר**
With an illness or visible wound, for which has a doctor has certain knowledge and clear understanding, and he prescribes a tested, complete treatment, we certainly compel a recalcitrant patient, if the alternative would be dangerous.
5. Talmud, Moed Katan 26b
If a patient's relative dies, we do not inform him of the death, lest his mind be torn...
6. Talmud, Gittin 13a
The speech of a person on his deathbed has the legal force of written and transmitted wishes.
7. Talmud, Horiyot 12a
One who wishes to embark [on the road], and wishes to know whether he will return home or not, should stand in a darkened house. If he sees a shadow of a shadow, he may know that he will return home. But he should not do this – he may become upset, and his *maza*/may be harmed.
8. Rabbi Yosef Karo (16th century Israel), Shulchan Aruch Yoreh Deah 338:1
We don't speak of all of this [deathbed confession] before the unlearned, before women or before children, lest they cry and break his heart.

9. Rabbi Moshe Feinstein (20th century USA), Igrot Moshe Choshen Mishpat 2:73:2

This [substitution] may be done only in a way that the dangerously ill patient will not know that the doctors think they cannot heal him. If this would cause him to know that they cannot heal him, he would be frightened, and this would hasten his death and his mind would be torn, which is always prohibited.

10. Kings II 8:9-10

And [Chazael] came and stood before [Elisha] and said, "Your son, Ben Haddad, King of Aram, has sent me to you, saying, 'Shall I die of this illness?'" And Elisha said to him: "Go tell him, 'You shall surely live.' But Gd has shown me that he shall surely die."

11. Midrash, Kohelet Rabbah 5:1, commenting on Kings II 19 and Isaiah 38

When Chizkiyah became ill, Gd told Isaiah: Go tell him, "Instruct your household, for you shall die, and you shall not live." Chizkiyah said to Isaiah, "Isaiah! Normally, one goes to look after the sick, and one says to him, 'They shall have mercy upon you from Heaven,' and the doctor goes to him and says to him, 'Eat this, don't eat that, drink this, don't drink that.' And even if one sees that he is dying, one does not say to him, 'Instruct your household,' lest he become upset. And you tell me, 'Instruct your household, for you shall die, and you shall not live!'"

12. Rabbi Betzalel Stern (20th century Hungary, Italy, Australia, Vienna, Jerusalem), B'Tzel haChochmah 2:55

It is not at all correct to trick the patient, telling him his illness is not serious and in a little while he will become stronger and will be healed, and such things which people generally tell a patient to calm him and settle his mind. For since there truly is no natural cure for this illness, who knows whether he will merit to be saved? Therefore, even though one should conceal from the patient the knowledge that his illness has no natural cure, one should not delude him regarding the knowledge that his illness is serious. Through this he will strengthen his prayers, make his accounting, and account with his Creator from the walls of his heart.

13. Instructions of Hippocrates

Fulfill your obligation to the patient in tranquility and for his benefit. Most matters should be withheld from the patient when you treat him. Instruct the patient in a pleasant and positive manner, but divert his mind from what is being done for him. At times you must deflect the patient's mind in a sharp manner, whereas other times you should calm his mind but without revealing to him his true condition or the prognosis.

14. *Aristotle's Psychology*, Stanford Encyclopedia of Philosophy

'Hylomorphism' is simply a compound word composed of the Greek terms for matter (*hylē*) and form or shape (*morphē*); thus one could equally describe Aristotle's view of body and soul as an instance of his "matter-formism." That is, when he introduces the soul as the *form* of the body, which in turn is said to be the *matter* of the soul, Aristotle treats soul-body relations as a special case of a more general relationship which obtains between the components of all generated compounds, natural or artificial.

Side Notes

15. Talmud, Shabbat 32a

For one who is ill and dying, they tell him, "Admit, for thus all who are to be executed admit."

16. Rabbi Yosef Karo (16th century Israel), Shulchan Aruch Yoreh Deah 338:1

For one who is dying, they tell him, "Admit." And they say to him, "Many have admitted and not died, and many have not admitted and have died. As reward for admitting, you shall live. And all who admit have a portion in the next world."

17. Talmud, Gittin 70a

Shemuel said: If someone is struck with Persian [poison-tipped] lances, he will not live. At this point, give him rich meat barbecued on coals, and undiluted wine, and perhaps he will live a bit and instruct his household.

Changes in the Secular World

18. Jonathan F. Will, *A Brief Historical and Theoretical Perspective*, Chest 139:6 pg. 1493

While physicians did develop a more consistent practice of obtaining patient consent in the early 20th century, the medical literature indicates that the practice was fueled more by a desire to respond to lawsuits than by a moral imperative to respect patient autonomy. In a 1911 article, physician George W. Gay suggested that "careful and explicit explanations of the nature of serious cases, together with the complications liable to arise and their probable termination,... be given to the patient ... for our own protection."...

In *Schloendorff v Society of New York Hospitals*, Justice Cardozo planted the seed for what would become the informed consent doctrine when he wrote, "Every human being of adult years and sound mind has a right to determine what shall be done with his own body; and a surgeon who performs an operation without his patient's consent commits an assault, for which he is liable in damages."

19. Rabbi Dr. Judah L. Goldberg, *Towards a Jewish Bioethic: The Case of Truth-Telling*, Tradition 43:2 (2010)

Regarding the interplay between psychology and biology, the gap between the outlook of Hazal and the perspective of contemporary medicine is multi-dimensional. First, whereas Hazal breathed and functioned in an essentially Aristotelian world that took the seamless unity of both existence and knowledge for granted, modern science operates within a fractious intellectual outlook that utterly forbids the mixing of spirit and material substance. Accordingly, while Hazal might have embraced spiritual or psychological explanations for disease, contemporary medicine insists upon organic theories. Stress as the basis for stomach ulcers has been replaced by bacterial infection; Freudian descriptions of neurosis have given way to hormonal imbalances in the brain. The same holds true for the hypothesis that any degree of mental distress can be lethal for a fragile patient. What for Hazal might have seemed intuitive to the point of obvious is at best eyed with wariness by modern medicine and at worst with derision.

How has Judaism responded to this new world?

20. Rabbi Dr. Judah L. Goldberg, *Towards a Jewish Bioethic: The Case of Truth-Telling*, Tradition 43:2 (2010)

One only begins to recognize how subjective a business medicine can be when several different consultants weigh in on a given case, each with a different area of specialization, and provide fundamentally discordant accounts of what is wrong and how to fix it. Worse, they may sometimes make little effort to reconcile their collective incongruities, leaving it to the patient to make sense of his or her situation. In other words, doctors do not resolve medical uncertainty; they exacerbate it. Rather than simplify medical decisions, the involvement of a physician adds another layer of complexity, as physicians themselves constitute just another variable in the guessing game of health care.

Finally, as [Benjamin] Freedman notes, the uncertainties of medical treatment do not disappear as therapeutic options fade and death becomes inevitable; they intensify. Which aggressive, life-supporting measures should be taken, and in what context? With what cost to the patient, whether in terms of side effects, discomfort, or risk? Every step of medical care is riddled with decisions, and every medical decision entails some element of ambiguity

21. Rabbi J. David Bleich, *A Physician's Obligation with Regard to Disclosure of Information*, Medicine & Jewish Law 1

I am perfectly willing to grant her the benefit of any possible doubt... I am also willing to concede that there were no adverse physical effects in any one of those 200 patients. Having done so, I nevertheless find no contradiction in her reports to anything found in rabbinic literature... They did not contend that this result would obtain in all cases, or even in the majority of cases. They contended only that it may occur in some cases; they did not even

hint at how small that minority of cases might be. All forms of inductive reasoning fall short of ultimate proof and demonstration because one cannot examine every possible case... Who knows what might happen in the case of the two-hundred-and-first patient?...

In an article entitled "Should the Doctor Tell the Patient that the Disease is Cancer? Surgeon's Recommendation," Victor Gilbertsen and Owen Wangenstein advocate full disclosure... [T]hey cite statistics that, in their opinion, augur in favor of disclosure. Four percent of surgical patients who received such information became emotionally upset upon learning the nature of their affliction and remained so through the course of their illness...

Any benefit attendant upon disclosure that may be enjoyed by some patients, must be weighed against the serious harm such disclosure may cause others...

22. Rabbi Dr. Avraham Sofer Abraham (21st century Israel), Nishmat Avraham Yoreh Deah 338:4

But today it is very hard to hide from a cancer patient the nature of his illness, and especially as most of them are treated via radiation and chemotherapy, or in an oncology unit or clinic. Further, thank Gd the success rate for treating these patients is increasing, and in many cases they can not only extend the patient's life, but actually completely cure his illness. And if they don't directly inform the patient of the nature of his illness, along with the hope of his treatment, he will certainly think the worst of his situation. Just the opposite, lack of knowledge, and worse, wrong and deluded knowledge, will bring him to despair and depression. On the other hand, when they tell him of his illness he will be able to reveal to the doctor his thoughts and fears, and in open conversation it will be possible to encourage him and give him the emotional support which is so important and necessary.

23. Rabbi Yigal Shafran, *דיווח אמת לתולה*, Assia 42-43 (1987)

One should realize that at its foundation [of the recommendation not to tell] is only the good of the patient and consideration of his situation. The import of this fact is that if there were to be a situation or case in which the good of the patient dictated the opposite, meaning on the contrary to tell the patient of his condition, for this would help him more, then it would appear clear that we would prefer to tell him the truth...

24. Rabbi Yosef Karo (16th century Israel), Shulchan Aruch Orach Chaim 330:1

A woman who is giving birth is like a dangerously ill patient, and we violate Shabbat for any of her needs... And we light a lamp for her, even if she is blind.

25. Rabbi J. David Bleich, *A Physician's Obligation with Regard to Disclosure of Information*, Medicine & Jewish Law 1

Nevertheless, in the real world there certainly are exceptions. First, an exception must be admitted in a situation in which disclosure is necessary in order to secure the cooperation of a patient in his treatment. Second, there are situations in which the patient is bound to discover the truth and he may learn the nature of his illness in circumstances that will cause greater harm...