

Donating One's Body to Medical Education and Research

Approved on June 20, 2024 by a vote of 15-3-0. Voting in favor: Rabbis Aaron Alexander, Jaymee Alpert, Pamela Barmash, Emily Barton, Suzanne Brody, Nate Crane, Elliot Dorff, David J. Fine, Joshua Heller, Barry Leff, Daniel Nevins, Matthew S. Nover, Karen Reiss Medwed, Joel Pitkowsky, Robert Scheinberg. Voting against: Rabbis Micah Peltz, Miriam Spitzer, Meir Szames. Abstaining: None.

שאלה (Question)

1. Is it permissible to donate your body to medical education and research based on the principles of *pikku'ah nefesh* (saving a life) and *kevod hamet* (respect for the dead), even though the general halakhic practice is to bury the deceased as soon as possible and to allow autopsies only in exigent circumstances?
2. If your loved one does donate, how should you observe mourning practices?

תשובה (Response)

I was inspired to write on these questions because in less than two years, three rabbis and one *hazzan* serving as the spiritual leader of her congregation sought my counsel about this (and since then, other rabbis have inquired). When laypeople asked about putting the donation of their bodies to medical education and research in their end of life plans, the rabbis immediately answered no but upon further reflection wondered if donating for the sake of medical education and research is an act of *hesed* that should be permitted, even encouraged and praised. The *hazzan* was affiliated with an organization that works with parents who have lost young children to encourage them to donate body tissue for research so that other children could be helped: at first, she thought it was permitted but then wondered if there might be some restriction.

To answer these questions, I start with investigating the uses of cadavers in medical education and research. Then I analyze the halakhic issues and pastoral concerns involved in donating one's body and conclude with how mourning is to be practiced when a loved one's body has been donated. An appendix includes a reflection for medical students and physicians to recite upon starting a dissection.

The Committee on Jewish Law and Standards of the Rabbinical Assembly provides guidance in matters of halakhah for the Conservative movement. The individual rabbi, however, is the authority for the interpretation and application of all matters of halakhah.

A. Cadaver Dissection in Medical Education and Research

Medical students and residents learn human anatomy through a number of methods: cadaver dissection done by medical students; prosections, where an experienced anatomist performs the dissection; examination and manipulating of plastinated specimens (human remains preserved in plastic), anatomical models, and simulators; and viewing and manipulation of virtual and online anatomical manuals and videos. According to the Association of American Medical Colleges, an organization that provides accreditation to medical schools and residencies, nearly all schools continue to use hands-on cadaver dissection, typically along with the other methods mentioned above. The data for the academic years 2012-2013 and 2016-2017 are that hands-on dissections by medical students and residents persists as part of medical training.¹ A review of current published research in medical education and science shows that medical instructors and students continue to value the experience of learning from cadaver dissection and deem it indispensable to medical education.²

Hands-on dissection is still necessary because it offers what other forms of anatomical training do not. Two dimensional resources, such as the Netter Atlas of Human Anatomy, the standard anatomical atlas, are far from the three dimensional reality of human bodies even though they are useful for orientation, supplementation, and review. The human body is imperfect and greatly variable — arteries may branch in different patterns, and pathological processes, such as heart disease, progress in different ways — and direct cadaver dissection allows the budding physician insight into physiological variety. Even more crucially, it allows for sensing fine distinctions, whether through seeing or touching: not even virtual reality allows for the distinct feel of different types of tissue or the layers within a nerve. Manual dissection allows both the medical student to learn basic anatomy and the expert physician to devise and gain skill

¹<https://www.aamc.org/data-reports/curriculum-reports/interactive-data/anatomy-resources>

²A brief search of current research into medical education at the time this teshuvah is being written yields many publications, a few of which are: Arunan Jeyakumar et al, “Dissection in the Modern Medical Curriculum: An Exploration into Student Perception and Adaptions for the Future,” *Anatomical Sciences Education* 13 (2020): 363-377; Yen-Yi Juo et al, “Mixed-Method Evaluation of a Cadaver Dissection Course for General Surgery Interns: An Innovative Approach for Filling the Gap Between Gross Anatomy and the Operating Room,” *Journal of Surgical Education* 75, 6 (2018): 1526-1534; Waqas Mahmud et al, “Dissection Videos Do Not Improve Anatomy Examination Scores,” *Anatomical Sciences Education* 4 (2011): 16-21; Ismail Memon, “Cadaver Dissection Is Obsolete in Medical Training! A Misinterpreted Notion,” *Medical Principles and Practice* 27, 3 (2018): 201-210; Andrew R. Thompson et al, “Participation in Dissection Affects Student Performance on Gross Anatomy Practical and Written Examinations: Results of a Four-Year Comparative Study,” *Anatomical Sciences Education* 13 (2020): 30-36. I have included these publications because they are published in the journals of flagship associations (the American Association of Anatomists publishes *Anatomical Sciences Education*) and/or primarily evaluate North American institutions of medical education, although Memon addresses medical education outside the United States and Canada, primarily although not exclusively Europe.

in new techniques. It may be that virtual dissections will eventually advance to the level of fine detail that manual dissection provides and thereby substitute for it, but that is still in the future.

Importantly, medical residents, fellows, physicians, and surgeons continue to use hands-on dissection to learn and review the anatomy underlying various surgical procedures and to innovate techniques in surgery. This point requires emphasis: it is not just medical students at the introductory level who learn via hands-on dissection but graduate physicians seeking to acquire special expertise and to make advances in medical techniques.

Medical schools and hospitals receive bodies for dissection through donations. Those who wish to donate their body do so out of the strong conviction that they are helping advance medical training and research in an indispensable way,³ and I have been asked about this four times in less than two years. Although it is very rare for an individual to decide to do so, donating a body to medical education and research involves a possible clash of halakhic values: donating one's body to medical education and research results in a long delay in burial, the body is subjected to manipulation after death, and the body in its entirety may not be returned. A teshuvah navigating a path between principles of halakhah is, therefore, warranted. We must address the pastoral concerns that need to be kept in mind and discussed with the possible donor and his/her/their loved ones because the donation affects the survivors and their community in a way that differs from the general way a funeral and burial are conducted. Mourning practices also present a challenge.

The Committee on Jewish Law and Standards has not officially addressed this directly in a formal teshuvah, although a number of Conservative/Masorti rabbis have published responsa dealing with this issue obliquely or on their individual authority.⁴ The Va'ad Halakhah, the

³For those who have lived a medically challenging life, this may bring meaning and comfort.(personal communication from Rabbi Lynn Liberman)

⁴Rabbi David M. Shohet, "Post Mortem Examination for Medical Purposes in Jewish Law," *Conservative Judaism* 4, no. 3 (1948): 15–27, not an approved teshuvah of the CJLS. Rabbi Isaac Klein addressed the issue of autopsy and briefly touched on the issue of cadaver dissections for medical training and on transplants in a teshuvah published as "A Teshuvah on Autopsy," *Conservative Judaism* 13 (1958): 52-58, retitled as "Autopsies and Transplants," in *Responsa and Halakhic Studies* (New York: Ktav, 1975; reissued in a revised and expanded edition by Rabbi David Golinkin, Jerusalem: Schechter Institute of Jewish Studies, 2005), pp. 42-52, and as "Autopsy," in *Life and Death Responsibilities in Jewish Biomedical Ethics* (ed. Rabbi Aaron L. Mackler; New York: Jewish Theological Seminary, 2000), pp. 437-445. According to the 2000 volume, this teshuvah was approved by the CJLS in 1958. However, CJLS approval is not indicated in either publication of Rabbi Klein's responsa or in the *Conservative Judaism* journal volume. The teshuvah is also not published at all in the 1927-1970 proceedings of the CJLS. Examining the CJLS archives is also inconclusive because the minutes from the meeting in September 1957 indicate that it was decided that the teshuvah would be put on the list of what would be discussed next, along with a few other items. Then, it appears to have been summarized in a discussion on February 4, 1958 without a summary provided. There were two other meetings, on October 30 and December 10, 1957, but those minutes are apparently missing. It

Conservative/Masorti committee that deals with halakhah in modern State of Israel, has officially approved a teshuvah by Rabbi Gilah Dror on this question, based on the need to maintain a first-rate medical system in Israel.⁵

B. Halakhic Principles and Rules

Two well-known halakhic principles, *pikku'ah nefesh* (saving a life) and *kevod hamet* (respect for the deceased), need to be weighed in the case of medical dissections in the training of medical students and physicians and in the advancement of medical science. These principles interrelate, sometimes at odds with one another and sometimes affirming the same ruling, and while discussing one, the other must be kept in mind.⁶

Among the most well-known halakhic principles is *pikku'ah nefesh*, saving a human life.⁷ The classic rabbinic discussion seeks to identify the biblical verse that allows even the Sabbath to be violated in order to save a life, a sign of the great importance of this principle:

רבי שמעון בן מנסיא אומר: ושמרו בני ישראל את השבת, אמרה תורה: חלל עליו שבת אחת כדי שישמור שבתות הרבה. אמר רב יהודה אמר שמואל: אי הואי התם, הוה אמינא דידי עדיפא מדידהו: וחי בהם — ולא שימות בהם.

Rabbi Shimon ben Menasya said: (It is based on) “the Israelites shall keep the Sabbath” (Exodus 31:16). The Torah meant: Desecrate one Sabbath on the behalf (of an ill person) so he will observe many Sabbaths.

Rav Judah said (in the name of) Samuel: If I would have been there (as the earlier rabbis debated this question), I would have said that my proof is more decisive than (Rabbi Shimon's): “(You shall observe my precepts and my statutes) so that a person will live by them” (Leviticus 18:5), not die by them.

appears possible that it was voted on at one of those two meetings, but it may not have been. On autopsy and dissection in halakhah, see Rabbi Avraham Steinberg, *אנציקלופדיה הלכתית רפואית*, 5.562-670.

⁵Rabbi Gilah Dror, “Teshuvah be'inyan terumat haguf leveit sefer lirfu'ah,” in *Teshuvot va'ad halakhah shel kenesset harabbanim beysra'el* (Jerusalem: Kenesset Harabbanim Be'yisra'el, 1995), pp. 143-160, <https://responsafortoday.com/wp-content/uploads/2018/05/vol5_13.pdf>.

⁶For a study of how posekim navigate between differing principles and rules, see Rabbi Pamela Barmash, “The Role of the Posek (Rabbinic Decisor) in Halakhah,” in *Hesed V'Emet Nashaku: Loving Kindness and Truth Embraced The Life and Thought of Rabbi Elliot Dorff, A Tribute by His Friends and Colleagues As He Enters the Years of His Biblical Strength* (Los Angeles: American Jewish University, 2023), pp. 96-112.

⁷On *pikku'ah nefesh*, see Rabbi Avraham Steinberg, *אנציקלופדיה הלכתית רפואית*, 6.452-467, <<https://www.medethics.org.il/pdf-browser/?id=20995>>.

(Babylonian Talmud Yoma 85a)

The rabbis agree that a situation endangering human life mandates violating the Sabbath in order to preserve life, and their only disagreement is about which biblical verse serves as its proof-text.

This principle of *pikku'ah nefesh* has often been taken to apply to only a specific instance in which life is at risk. The classic examples in the Babylonian Talmud, Yoma 84b, about what may be done on the Sabbath to save a human life focus on a specific life, such as digging out a person caught in a collapsed building, and rescuing a child who is in a dangerous situation.⁸ There is only one exception in Yoma 84b to invoking *pikku'ah nefesh* only for danger to a specific human being: the text rules that trying to confine an uncontained fire also is a case of *pikku'ah nefesh*. A fire out of control is a very grave threat, and requiring that it be contained on the Sabbath, even if it is not clear that anyone in particular is in danger, makes sense.

However, *pikku'ah nefesh* does apply to other situations beyond the observance of the Sabbath. The majority of the *poskim* who permit an autopsy do so under the principle of *pikku'ah nefesh*, deeming *pikku'ah nefesh* of greater significance than other halakhic principles and rules. They allow autopsy only in very narrow circumstances — in the case of an individual with a specific disease seeking the aid of physicians at the same time that another individual has died from that same disease.⁹ *Poskim* reason that physicians may learn how to heal another patient suffering from the same disease at the same time, but they did not deem the principle of *pikku'ah nefesh* as sufficient to allow dissection for general medical education or learning how to cure disease in the future.¹⁰

⁸The Talmudic discussion offers three examples in which *pikku'ah nefesh* is invoked in the case of a child: a child has fallen into the sea or a pit from which the child cannot get out or a child who is trapped behind a locked door. The final example, being caught behind a locked door, may not seem to be that dangerous, and commentators have sought to emphasize that the child is crying out in fear (e.g. Rashi)

⁹E.g. Rabbi Ezekiel Landau, *Noda Bihudah*, Y.D. 210, and Rabbi Moses Sofer, *Hatam Sofer*, Y.D. 336, permit autopsy when there is another person in the vicinity suffering from the same disease because physicians may learn how to save that person and is a case of *pikku'ah nefesh*.

¹⁰However, *pikku'ah nefesh* has been applied more generally. First, in the debate over ceding territory for peace, Rabbi Ovadya Yosef (Iraq, Israel, 1920-2013) and Rabbi Shaul Yisraeli (Belarus, Israel, 1909-1985) both cite *pikku'ah nefesh* as one of the principles on which they base their responsa. Rabbi Yosef writes:

ומעתה נראה לפי מצבנו הרוחני אסור לנו לסמך על הנס ולהיכנס בסכנת מלחמה עם השכנים הערבים שמא יגרם החטא...ושבנו...שפקוח נפש דוחה (איסור) החזרת שטחים, ובאמת כל ממשלות ישראל לא החילו ריבונות של מדינת ישראל על השטחים, מתוך כוונה שאולי יתאפשר משא ומתן עם שכנינו להחזרת השטחים למען שלום עם מדינת ישראל.

...given our spiritual state today, it would appear that it is prohibited for us to rely on a miracle and risk a war with the neighboring countries, for perhaps our sins

A principle of halakhah less well-known, yet clearly related to pikku'ah nefesh on both the conceptual and practical level is sakkant nefashot, “general danger to human lives.”¹¹ It requires that we avoid danger to human life and do what we must to save human lives, even if the lives in question are not in immediate danger. Rabbi Moses Isserles wrote:

וּכְּנִי יִזְהַר מִכָּל דְּבָרִים הַמְּבִיאִים לְיָדֵי סִכְנָה כִּי סִכְנַתָּא חֲמִירָא מֵאִיסוּרָא וְיִשׁ לְחֹשׁ יוֹתֵר לְסַפֵּק סִכְנָה מִלְּסַפֵּק אִיסוּר...וּלְכַן אִסְרוּ לִילֵךְ בְּכָל מְקוֹם סִכְנָה כְּמוֹ תַחַת קִיר נְטוּי...עוֹד כָּתְבוּ שִׁישׁ לְבְרוּחַ מִן הָעִיר כְּשֶׁדָּבַר בְּעִיר וְיִשׁ לְצֵאת מִן הָעִיר בְּתַחִילַת הַדְּבָר וְלֹא בְּסוּפוֹ...וְכָל אֵלּוֹ הַדְּבָרִים הֵם מְשׁוּם סִכְנָה וְשׁוּמֵר נַפְשׁוֹ יִרְחַק מֵהֶם וְאִסוּר לְסַמוֹךְ אֲנָס אוֹ לְסַכֵּן נַפְשׁוֹ בְּכָל כִּיּוּצָא בִּזְהָ

One should avoid all things that might lead to danger because a danger to life is stricter than a prohibition. One should be more concerned about a possible danger to life than a possible prohibition...Therefore, it is forbidden to walk in a dangerous place, like under a leaning wall....They also write that one should flee a city when there is plague in the city, and one should go when the plague is in its beginning, not at its end. All of this is because of danger, and “those who seek to preserve their life should distance themselves from (dangers)” (Prov 22:5)...And it is prohibited to rely on a miracle or to put one’s life in danger. (Y.D. 116:5)

will be the cause (that God will not perform a miracle)... Hence, we return to the principle that pikku'ah nefesh suspends the prohibition of returning territories — indeed, all Israeli governments refrained from annexing the territories in order to permit the possibility of negotiations based on exchanging territories for peace.

[Rabbi Yosef published this essay in two places: *Tehumin* 10 (1989): 34-47, with an early version in *Torah She-be'al Peh* 21 (1980): 12-20. An abbreviated translation is found in Rabbi Pamela Barmash, *Modern Responsa: An Anthology of Jewish Ethical and Ritual Decisions* (Philadelphia: The Jewish Publication Society; Lincoln: University of Nebraska Press, forthcoming).]

Rabbi Yosef argues that the principle of pikku'ah nefesh mandates that territory be returned because we cannot rely on a miracle to save us from war and its terrible loss of life. In a teshuvah written in response to Rabbi Yosef's opinion, Rabbi Yisraeli excoriates Rabbi Yosef, arguing that the principle of pikku'ah nefesh mandates that territory not be ceded for the sake of a peace treaty because ceding territory will increase the danger of war because.(*Tehumin* 10 (1989): 48-61. An abbreviated translation is Barmash, *Modern Responsa*) In both opinions, the principle of pikku'ah nefesh is invoked because of the real, yet not immediate, danger of war. Opposing militaries imminently poised to attack is not the situation at the time that Rabbis Yosef and Rabbi Yisraeli are writing, but danger to life during war is a genuine and undeniable possibility that must be taken into account in analyzing the acceptability of ceding territories for peace.

¹¹<https://www.rabbinicalassembly.org/story/clergy-and-shelihei-tzibbur>

Sakkanat nefashot is of more general application than piku'ah nefesh (yet it is far less analytically developed in halakhic writing). One needs to take sensible actions to avoid danger to life.¹² But is this enough to permit medical dissection as part of the training of physicians? Here, we need to turn to discuss another halakhic principle, kevod hamet.

The major principle that guides how we treat the body of the deceased is כבוד המת kevod hamet (or יקרא דשכבי), respect for the deceased. The body of the deceased must be treated with dignity. This principle is expressed in a number of specific practices: burying the deceased as soon as possible, having a shomer (a guardian) always in attendance upon the deceased from the time of death to the time the community gathers for the funeral, and accompanying the casket in a funeral cortege. This principle also encompasses a number of prohibitions, one of which is ניוול המת nivvul hamet, disgracing the dead, and since medical dissection involves the examination, manipulation, and dissection of the deceased's body, we must first examine whether nivvul hamet prohibits medical dissection.

The Babylonian Talmud Sanhedrin 46b debates whether the purpose of burial is to prevent nivvul hamet, disgracing the dead, or to promote atonement by returning the body to the earth (from where it comes), and leaves that question unresolved. Nahmanides is the first to resolve this dispute. He argues that burial is meant to avert nivvul hamet and that the prohibition of nivvul hamet applies to living human beings, not the deceased (Torat Ha'adam, Sha'ar Hasof, Inyan Hakevurah) with the statement דבזיונא דכולהו חיי קאמרינן , “we mean shaming all (living human beings),” later incorporated in the Tur Y.D. 348.

Rabbi Ben-Zion Meir Hai Ouziel (Israel, 1880-1953) invokes this point:

שמא תאמר שאפשר לעשות נתוח זה על ידי נתוח גופות הגויים, זה ודאי לא נתן ליאמר ומכל שכן להכתב שהרי אסור הנוול הוא משום בזיון דכולהו חיי כלומר שבזיון הוא להשאיר אדם הנברא בצלם אלקים ומחונן בשכל ובינה לרדות ולמשול בכל הבריאה כלה שיהא מוטל ע"פ חוצות מנוול ומלא סרחון

Perhaps one might say that it is possible to do [these dissections] by doing them on non-Jewish corpses. This certainly should not be said, nor should such words be published. The prohibition of nivvul hamet is about disgracing [living] human beings. That is to say, [this] disgrace occurs when [the body of] a human being, born in the image of God, endowed with intelligence and understanding, safeguarding and holding jurisdiction over all of creation, is [left] lying on the ground, decaying [and therefore applies to all corpses, both Jewish and non-Jewish].

He then states categorically:

אין למת עצמו שום הרגשה בנוול...התהפכותו למצב גוף מבזזה גורם בזיון לכל מי שיראוהו במצב זה

¹²Sakkanat nefashot is cited as the reason why one may interrupt the recitation of the Amidah and the Shema. See Arukh ha-Shulhan, OH 104:1, 5.

The dead do not have a sense of nivvul...[Rather, the deceased's] transformation into a disgraced body causes disgrace to all those who see [the deceased's body] in this situation.

Nivvul hamet occurs when living human beings are ashamed to see a body is left out in the open, exposed to the elements, rotting.¹³ Rabbi Ouziel argues that by contrast dissection meant for positive reasons, such as medical education, is permitted:

¹³Mishpatei Uzziel 1, Y.D., 28. Rabbi Ouziel is writing in response to the 1925 controversy in Poland when the University of Warsaw issued a decree that Jewish students would only be accepted to the medical school if some bodies from the Jewish community would be donated for medical dissection. It should be noted that Rabbi Ouziel does not put forward the argument that the dissection of the bodies of Jews must be permitted so that Jews may study medicine or that Jews should not study medicine because it would entail dissection. Zvi Zohar argues that Ouziel's view derives from his overall principle that all Jews should pursue the paths of peace with all people, all of whom are made in the image of God. (בן ה' הרב עוזיאל -- יהיד, לאום, אנושות). (Ramat-Gan: Bar-Ilan University Press, 2020), pp. 91-96. See also Yitzhak Benbeji, "Misgarot musagiyot behitnagshut: Harav Uzziel al nituhei meitim," in *Yahadut penim vehutz: dialog bein olamot*, ed. Avi Sagi, Dodi Schwartz, and Yedidiah Tz. Stern (Jerusalem: Magnes, 2000), pp. 201-218.

On the 1925 controversy, see Natalia Aleksion, "The Cadaver Affair in the Second Polish Republic," in *Alma Mater Antisemitica: Academic Milieu, Jews and Antisemitism at European Universities Between 1918 and 1939* (Vienna: Wiener Wiesenthal Institut für Holocaust-Studien, 2016), pp. 203-220, and on the general lack of cadavers for medical dissection, see Natalia Aleksion, "Pleading for Cadavers: Medical Students at the University of Vienna and the Study of Anatomy," *S.I.M.O.N.* 2, 2 (2015): 4-10.

It must be noted that in publishing his teshuvah, Rabbi Ouziel is also answering Rabbi Abraham Isaac Kook, who argued that the prohibition of nivvul hamet, disgracing the body of the deceased, applied only to Jews since this prohibition was unique to Jews. (Da'at Kohen, 199) Non-Jews, in his opinion, did not have the same laws on the treatment of human bodies and consider their bodies only as biological structures. Even though the prohibition of nivvul hamet is derived from the concept that all human beings were created in the image of God, Rabbi Kook argued, this is manifested especially in Jews due to the intrinsic holiness of their souls and the performance of mitzvot that enhance it. Medical students might treat human bodies indifferently, failing to remember the respect due to the deceased's body, violating the prohibition of nivvul hamet.

Other modern poskim ruling against donation include Rabbi Ovadiah Hedaya, Yaskil Avdi, volume 6, Y.D. 19. Rabbi Natan Zvi Friedman, Netzer Mata'ai, volume 1, 31, writes that professors of medicine disagree over whether it is possible to learn anatomy sufficiently from detailed models and that a team of professors from France were working in Jerusalem at the time he wrote on anatomical models that would serve as a sufficient means of training so that dissection would no longer be necessary. However, it appears that their methods were not adopted since dissection is still part of Israeli medical training.

דכל שאין הנוול מכוון לבזיון אין בו שום אסור, מכל שכן במקום שהנוול נעשה לצורך החיים לפקוח נפשות ודאי דחיי הצבור והיחיד עדיף מכבוד החיים. ומדינא מותר לנתח ואין זה נקרא נוול ולא אסור הנאה.

As long as the nivvul is not meant to shame, it is not prohibited; all the more so, when the nivvul is meant for the sake of the living, because of pikku'ah nefesh. Surely life, whether of many people or only one, takes precedence over the honor of the living. It is permitted to conduct dissection, and in fact, it should not be called nivvul at all. It is not forbidden to make use of [the dead body].

Rabbi Ouziel argues that even if dissection infringes on the respect due to the living (not just to the dead, as surprising as this may be),¹⁴ it would be correct to set aside this prohibition because pikku'ah nefesh is a more important principle. Rabbi Ouziel goes further, emphasizing that there is no need to even make this argument because manipulation of the body for a positive reason is permitted.¹⁵

Rabbi Ouziel's conviction that dissection is permitted is embodied in a striking anachronism that he creates, as recognized by Zvi Zohar.¹⁶ Rabbi Ouziel argues that the rishonim, the medieval rabbis, permitted medical dissection and did not deem it nivvul:

שמנתחים את המת לצורך למוד מלאכת הרפואה כדי לרפאות בני אדם אחרים מסתברא ודאי שהוא מותר גמור ואין ספק שכל רבותינו הראשונים שהיו גם רופאים מומחים הוצרכו לבדוק את גופות המתים כדי ללמוד ולהתלמד ולא חשו לאסור נוול.

That one may dissect the dead for the sake of learning medicine in order to heal other people is obviously completely permitted, and there is no doubt that our rabbis the rishonim (the medieval rabbinic authorities) who were also expert

¹⁴Personally, I would hold that nivvul hamet applies to both the deceased and the living: both the deceased and the living are disgraced by the improper treatment of the deceased's body.

¹⁵Rabbi Ouziel responds to the ruling by other poskim that pikku'ah nefesh restricted autopsy only in the case where there is another person in the vicinity suffering from the same disease by arguing:

ובודאי שתמיד נמצאים כמה וכמה בני אדם שחולים באותה המחלה. ואם לא ידוע לנו ברגע זה, למחר או היום יודע לנו.

Surely there are always a number of people who are made ill by the same disease, and even if we are not aware of this now, soon we will be.

Rabbi Ouziel enlarges the idea of "before us," highlighting that more than one human being suffers from a specific disease, and even if a patient is not before a physician at that moment seeking treatment, surely there will be.

¹⁶Zohar, הרב עוזיאל -- יחיד, לאום, אנושות, p. 93.

physicians needed to examine the bodies of the dead in order to learn and familiarize themselves and they did not concern themselves to forbid (it) because of nivvul.

Rabbi Ouziel expresses his confidence that medical dissection is permissible because a considerable number of rishonim (medieval rabbinic authorities) were themselves physicians¹⁷ and undoubtedly learned medicine through dissection. Zohar highlights that this argument is incorrect because only at the end of the Middle Ages was dissection incorporated into medical training.

Other poskim have permitted corpses to be used in medical training and science. Rabbi Samuel Zalman Auerbach permits medical personnel to practice intubation on corpses so as to learn how to intubate safely on living human beings.¹⁸ Rabbi Hayyim Sofer argues that a physician paying a fee to examine a corpse does not violate the prohibition of hana'ah meihamet, profiting from a corpse, because it is wisdom that is gained, not material profit.¹⁹

Our distinguished colleague Rabbi Gilah Dror, writing for the (Israeli) Va'ad Halakhah, addresses the special context of Israel: donating one's body to science presents special challenges in a population, overwhelmingly Jewish and Muslim, with a practice of timely burials and a general hesitancy about, or even aversion to, autopsy.²⁰ She responds to the argument that cadavers should be imported to Israel for medical training rather than permit Jews in Israel to donate their bodies and concludes that it was appropriate for Jews in Israel to donate their bodies.

In so doing, Rabbi Dror integrates a new consideration to the discussion. She argues that the mitzvah of רפא ירפא "one shall surely heal" (Exodus 21:19) crucially supports donating one's body to medical education and science. Babylonian Talmud Bava Kamma 85a adjudges:

דתניא, דבי רבי ישמעאל אומר: ורפא ירפא – מכאן שניתן רשות לרופא לרפאות.

As it is taught in a baraita that the school of Rabbi Yishmael says: When the verse states: "And shall cause him to be thoroughly healed" (Exodus 21:19), it is derived from here that permission is granted to a doctor to heal.

But it is more than just permission (heiter): it is a mitzvah, as Rabbi Joseph Caro writes:

¹⁷Rabbi Immanuel Jakobovits states that at least half of the most well-known rabbis (and Jewish philosophers and poets) of the Middle Ages were physicians by profession, basing himself on Cecil Roth (*Jewish Medical Ethics* [New York: Bloch, 1975], 205).

¹⁸Auerbach, *Nishmat Avraham*, volume 2, Y.D. 349.2.

¹⁹Rabbi Hayyim Sofer, *Mahaneh Hayyim*, volume 2, Y.D. 60.

²⁰Dror, p. 157.

נתנה התורה רשות לרופא לרפאות ומצוה היא ובכלל פיקוח נפש הוא ואם מונע עצמו הרי זה שופך דמים ואפי' יש לו מי שירפאנו...

The Torah has granted the physician permission to heal, and it is mitzvah a religious duty which comes under the rule of pikku'ah nefesh. If [the physician] withholds [treatment], [the physician] is regarded as one who sheds blood, even if there is someone else who can heal [the ill person]...(Y.D. 336:1)

How can a physician learn to heal properly without feeling and examining the physical reality of the human body?

There is one more angle to consider. As I was writing this teshuvah, I spoke with a number of physicians who expressed to me their profound appreciation to the one whose body they studied through dissection in their medical education and how much they have received from the privilege of bringing healing to others. For physicians in particular, donating their body to medical education and science is a way of showing kevod hamet to those who donated their body in the past, from whom they learned the art of healing and gained the privilege of healing others, and indeed a significant number of physicians do donate their bodies to medical education and science in gratitude. This may apply in general for all people — donating one's body is of great significance, a special gift to those who come later who seek healing at the hands of those who will learn to bring healing. It is a gift that is very rare, yet absolutely necessary in medical education and science.

Is it an act that all should do? Practically no, since medical schools and research facility could not handle it, but it is an act of *hesed* that *some* need to do. Halakhah recognizes that there are those who follow an ideal of piety beyond the requirements:

תא שמע בעל הבית שהיה עובר ממקום למקום וצריך ליטול לקט שכחה ופאה ומעשר עני נוטל ולכשיחזור ישלם דברי רבי אליעזר. אמר רב חסדא מדת חסידות שנו כאן

Come and hear: A homeowner was passing from place to place and ran out of money while traveling and needs to take gleanings, pe'ah, or the poor man's tithe in order to sustain himself, he may take them, and when he returns to his house he will pay. This is the statement of Rabbi Eliezer [but the halakhah does not follow him]. Rav Ḥisda said: The mishnah taught midat ḥasidut (an attribute of piety) here.

(Babylonian Talmud Ḥullin 35b)

During travel, a homeowner, a person who has financial wherewithal, runs out of money and cannot access the financial resources that a homeowner is able to is entitled to maintain himself based on what is reserved for the poor. While the homeowner does not have to repay what he appropriated — if he does so anyway, he has followed midat ḥasidut (piety). It may be unnecessary yet it is praiseworthy, and only some will do so. Another expression of that is lefanim mishurat hadin: it is often translated as “beyond the letter of the law,” as if the act transcends law, yet the Hebrew expression means “internal to the law”, as if the act embodies the

deeper fundamentals of law. A story is told about Rav Pappa in Babylonian Talmud Ketubbot 97a:

תא שמע: דההוא גברא דזבין ארעא לרב פפא, דאצטריכו ליה זוזי למיזבן תוריי. לסוף לא איצטריכו ליה, ואהדריה ניהליה רב פפא לארעיה. רב פפא לפנים משורת הדין הוא דעבד.

Come and hear: There was a certain man who sold land to Rav Pappa because he needed money to buy oxen. In the end, he did not need the money [and regretted having sold the land], and Rav Pappa returned his land to him. Rav Pappa acted in a manner that was *lefanim mishurat hadin*.

Rav Pappa had every right to keep possession of the land because at the time of sale the owner thought he had to sell, but as it turns out, the owner did not, and Rav Pappa returned formal ownership of the land back to the original owner. Rav Pappa based himself upon the fundamental basis of the law of the forced sale of land: from one perspective, the original owner intended to sell the land based on his thinking that he needed the money to buy oxen for plowing, but from another perspective, the original owner was mistaken in thinking that he had to sell law. Therefore, *lefanim mishurat hadin*, Rav Pappa returned the land.

In both cases we have discussed of *midat ḥasidut* and *lefanim mishurat hadin*, the person who follows them does not need to but may. So, too, donating one's body is not a requirement but an act of *midat ḥasidut* and *lefanim mishurat hadin*: a limited number of individuals (along with their families and loved ones) will want to do so. And only time will tell whether future advances in technology will lessen the need.²¹

C. Pastoral Concerns

The pastoral concerns are of equal weight to the halakhic issues. The emotional impact on the (future) survivors of delaying the burial and perhaps ruminating on what is happening with the deceased body may be significant. The person who wishes to donate should discuss the request with the future survivors, whether family or other loved ones. The emotional strain it could put on the (future) survivors who may feel in limbo until the medical school has completed the course of study may be considerable. On the other hand, the donor may feel strongly that donation is a wish that must be respected by family and loved ones, and indeed family and loved ones may pride themselves on the donation. A conversation of the donor and family/(future) survivors with their rabbi well in advance of death is worthwhile, indeed necessary. Just as a person discusses other advance directives (medical directives, power of attorney, cemetery plot,

²¹Only after I finished writing this teshuvah did I discover that one of the most eminent founders of Conservative/Masorti Judaism had issued a *pesak din* allowing the donation of a body to medical education and science. See Rabbi Zecharias Frankel, "Ueber manche durch den Fortschritt der Medicin im Judenthum bedingte Reformen," *Zeitschrift für die religiösen Interessen des Judenthums* 2, No. 9 (1845): 342-349, esp. p. 345, and 2, no. 10 (1845): 369-380.

funeral preferences, etc.), so too the decision to donate one's body, even if the discussion may be stressful.

The rabbis supporting the mourners and the deceased's community are advised that they may need special support, consolation, and explanation. The members of the *hevra kadisha* may also require additional directions from a rabbinic supervisor.

A number of issues must be investigated by the potential donor when considering whether to donate and to which medical institution to donate. First, bodies may be embalmed to preserve them over the course of study, while others may be studied as fresh tissue. Second, different medical institutions may or may not provide everything back or anything back. Third, when the body is returned, it may likely be returned as cremated remains. A medical school that returns remains, even cremated remains, is to be preferred over one that does not so that the remains may have a burial with loved ones present and Jewish ritual performed, fulfilling the mitzvah of burial. If it is anticipated that remains will be returned, then a burial plot should be obtained and arrangements for the future return of the body should be made so that mourners need not have additional burdens placed upon them at the time the remains are returned.

An important issue must be considered by the family and loved ones of the donor as well. The emotional impact of the death upon them may make it difficult for them to follow through on the wishes of the donor. This matter should be discussed in advance, and the rabbi may assist both in advance and at the time of death.

Many medical schools have a service of respect and appreciation at the end of the academic year to which the families and loved ones of those who had donated their bodies are invited. The message of the service is that those people who donated had made an immense and special contribution to the healing of people in the future, and the service is very dignified and respectful. Medical students see the body they dissect as their first patient and are awed by the gift that the person has made to, and for, them. At the same time, medical school professors report that the body prompts medical students to reflect on their own humanity and nurture a sense of empathy. The person donating has made a gift that has a huge impact upon the budding physician. Physicians at more advanced levels of study are also well aware of the profound significance of the donation. *The reflection appended to this teshuvah may serve as a meditation for both medical students and graduate physicians before starting a dissection (or prosection), and rabbis are encouraged to present this reflection to medical students as they start their studies and to physicians who do dissections as part of their advanced training and research.*

D. Mourning Practices

The normative process is that the mourners observe *aninut*, the period between death and the funeral, in which they prepare for the burial and are excused from daily prayer and a number of other mitzvot and refrain from drinking wine and consuming meat on weekdays. *Shivah* begins once the body is buried. However, in the case of donating a body to medical education and

science, there will be a long delay until the remains are returned, if they are returned. How should mourning practices be observed in this case?²²

There are a number of classical precedents for observing shivah before burial. In the case of a city under siege, when taking the body outside the city is not possible, even though eventually burial would likely take place, shivah begins when the casket is sealed.²³ The other classic case is when the deceased is taken for burial to another city, a situation that arose at a time when travel was laborious and might involve long delays, shivah begins when the mourners turn away from the deceased.²⁴ Based on these precedents, shivah would begin as soon as the body is turned over to the medical school or research facility, either when the papers are signed by the deceased's family or authorized representative or, if papers were signed before death, when the body is delivered to the medical school or research facility, and the mourners are no longer responsible for the body. Once shivah begins, a funeral should take place.²⁵ This will allow the mourners to have a farewell with eulogies or the equivalent, *keri'ah* (tearing of the mourner's garment or equivalent), the prayer *el malei raḥamim* or an alternative, and perhaps a meditation acknowledging the special circumstances of the funeral and the deceased's decision to donate. At the home where shivah is observed, the mourners receive visitors, the memorial candle customary to shivah is lit, meals of consolation are served, and *minyanim* are constituted for davenning. *Kaddish*, normally beginning at the burial,²⁶ may be recited as soon as shivah starts and continues through the appropriate time period.²⁷

²²Rabbi Joshua Heller's teshuvah, "Shiva When Burial is Delayed," <https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/2011-2020/heller-shiva-delayed-burial.pdf>, is helpful in determining how mourning should be observed, and my discussion is based on his.

²³S.A., Y.D. 375:4.

²⁴S.A., Y.D. 375:2.

²⁵Rabbi Elliot Dorff, "Rabbi, I'm Dying," *Conservative Judaism* 37, 4 (1984): 49-50.

²⁶Whether mourner's *kaddish* should be recited starting at the burial or before is a matter of debate. See Rabbi Moshe Isserles, Y.D. 376:4 and Rabbi Moshe Feinstein, *Iggerot Moshe*, Y.D. 3:160. For the history of the development of mourner's *kaddish*, see Rabbi Kenneth E. Berger, *Tradition, Interpretation, and Change: Developments in the Liturgy of Medieval and Early Modern Ashkenaz* (Cincinnati: Hebrew Union College Press, 2019), pp. 280-302; and David Shyovitz, "You Have Saved Me from the Judgment of Gehenna": The Origins of the Mourner's *Kaddish* in Medieval Ashkenaz," *AJS Review* 39, 1 (2015): 49-73. Due to its historical development, this *kaddish* has been traditionally called *kaddish yatom* (orphan's *kaddish*), but since many of those reciting this *kaddish* are not mourning a parent, it is sometimes referred to as *kaddish aveilim* (mourners' *kaddish*).

²⁷For a discussion of the appropriate period of time during which mourner's *kaddish* is recited,

If possible, the hevra kadisha should also be involved in preparing the body with the usual preparation of the body through washing and the recitation of liturgy before the body is turned over to the medical school or research facility. If shemirah is observed, a shomer should stay with the body until the body is placed in the transport vehicle taking it to the medical school or research facility.

When the medical school is finished with the body, if remains are returned, the remains are buried in a grave. If the remains are returned as cremated remains, they too must be buried in a grave.²⁸ Based on the practice in talmudic times, when the bones of the deceased were placed in their final resting place, a burial service with words of memorial and mourner's kaddish, and an acknowledgment of the special circumstances of the burial and the deceased's decision to donate. A single day of mourning, with the usual practices of mourning and a meal of consolation, is observed until evening.²⁹

Pesak Din

1. Those who wish to donate their body to medical education and science may do so. A medical school or research facility that returns remains is to be preferred over one that does not.
2. Shivah begins once the body is consigned to the medical school, either when papers are signed by the mourners or their designate, or if papers were signed before death, the body delivered to the medical school or research facility. A funeral service is to take place
3. If, and when remains are returned, the burial service takes place, and the mourners observe one day of shivah.

²⁸Rabbinic authorities have debated whether cremains may be buried in a Jewish cemetery because cremation was viewed as a rejection of Jewish values. See Adam S. Ferziger, "Ashes to Outcasts: Cremation, Jewish Law, and Identity in Early Twentieth-Century Germany," *AJS Review* 36 (2012): 71-102; Heller, pp. 6-7; and Rabbi Morris Shapiro, "Cremation in the Jewish Tradition," https://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/19861990/shapiro_cremation.pdf.

However, in the case of a body donated to medical education and science, the donation was made in accord with halakhic principles and, therefore, burial in a Jewish cemetery is appropriate. The cremains should not be kept on a shelf or closet.

²⁹Special appreciation to those who provided counsel during the writing of this teshuvah: Amy Bauernfeind, Ph.D.; Rabbi Joshua Bender, CJLS fellow in prophetic halakhah; Rabbi Suzanne Brody; Rabbi Elliot Dorff; Rabbi David Fine; Rabbi Judith Hauptman; Marilyn C. Kincaid, z"l, M.D.; Rabbi Lynn C. Liberman; Neil Wenger, M.D.; and the rabbis who attended my shi'ur at the 2022 Rabbinical Assembly Convention.

Appendix

Meditation by Rabbi Simchah Roth
(translated by Rabbi Pamela Barmash)

Rabbis are encouraged to present this reflection to medical students as they start their studies and to physicians who do dissections as part of their advanced training and research.

The physician or medical student may say:

הנני מוכן ומזומן/מוכנה ומזומנת לקיים מצות עשה של רפואת האדם, כמו שכתוב בתורה: "ורפא ירפא"; ובא בקבלה "מכאן שניתן רשות לרופא, לרפאות"; והובא להלכה: "נתנה התורה רשות לרופא לרפאות, ומצוה היא ובכלל פקוח נפש הוא". אשר על כן הנני בא/באה לנתח את המת, כדי להכשיר את עצמי במלאכת הרפואה, ולהרבות חכמה ודעת, ובשכר זה יחיו חולים רבים ולא ימותו. רבון כל העולמים, איל אֵ־להי הרוחות לכל בשר, אשר בידך נפשות החיים והמתים, מלא-נא לבי יראת כבוד כלפי הגויה הזו, לבל אשכה ולו לרגע קט, שהיא היתה הארמון המפאר שבו שכנה נשמת המת עד הסתלקותה ממנו לחיי עולם. ויהי רצון שמצוה זו של זיכוי הרבים תעמד לנשמת הנפטר/הנפטרת, ובשכר זה תהיה נפשו/נפשה צרורה בצרור החיים עם שאר צדיקי עולם. וכן יהי רצון. אמן ואמן.

I am now ready to observe the positive mitzvah of healing, just as it is written in the Torah, “surely heal,” understood in tradition as the source allowing a physician to heal, and ordained in halakhah as “The Torah allows a physician to heal, and it is truly a mitzvah, as part of the principle of pikku’ah nefesh”. Therefore, I have come to operate on the deceased so that I may train myself in medical skills and increase my wisdom and understanding so that many ill people may live. May the Ruler of the cosmos, God who animates the life force of all creatures, who is entrusted with the souls of the living and the dead, fill my heart with respect for this body, so that I do not forget even for a moment that it was the beautiful palace in which the neshamah of the deceased dwelled until it was transfigured to eternal life. May it be God’s will that the mitzvah of healing others be granted to the deceased. May their souls be bound up in the bond of life with the righteous. Amen.

Then the physician or medical student may say to the body of the deceased:

תהא נשמתך צרורה בצרור החיים.

May your soul be bound up in the bond of life.