

# Organ Donation: Gift or Halachic Obligation?

*Only a Handful of Known Jewish Donors in Recent Years*

BY MALKA EISENBERG

As many as 17 people die each day in the United States waiting for an organ transplant to become available.

More than 28,000 transplants were done in the U.S. in 2005, according to the New York Organ Donor Network, but more than 92,000 people are waiting for organs. Out of 261 deceased organ donors in the New York area, only five were known to be Jewish.

Two events will help focus attention on the urgency and necessity of organ donation. On Nov. 15 and 16, Yeshiva University's Albert Einstein College of Medicine will host a seminar on the medical and halachic aspects of organ donation. The Sephardic Chief Rabbi of Tzfat, Rabbi Shmuel Eliyahu, son of Rabbi Mordechai Eliyahu, will discuss the mitzvah of organ donation. The conference is sponsored by the Halachic Organ Donor (HOD) Society,

the New York Organ Donor Network and the Schlesinger Institute for Jewish Medical Ethics.

The NY Organ Donor Network has designated this weekend National Donor Sabbath to promote organ and tissue donation and transplantation.

Elaine Berg, president and CEO of the Organ Donor Network said, "We hope that all houses of worship will get the word out that a single organ donor can save up to eight lives, and one tissue donor can save or improve life for as many as 50 recipients."

## *Transplant certification for rabbis*

The Halachic Organ Donor Society is a strategic partner of the NYODN. Rabbis who complete the seminar at Einstein will receive certification from the HOD Society and NYODN recognizing them as official rabbinic consultants for the transplant community. "We

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## ORGAN TRANSPLANTS AND HALACHA

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are very excited about this unique seminar where rabbis and physicians will be learning about medicine and halacha," said Robby Berman, founder and director of the HOD Society. "I believe this joint seminar will grease the wheels between these two communities so that physicians can learn about rabbinic concerns and rabbis will learn the medical lingo and the medical realities of brain-stem death. Ultimately this will facilitate donations and save lives." Physicians who attend the seminar will receive 14 CME credits.

Although organ donation can be deemed "not only permissible but mandatory or obligatory," since it involves saving a life, said Dr. Fred Rosner, the definition of death remains a Halachic problem. Dr. Rosner is a professor of medicine at Mt. Sinai School of Medicine and has written extensively on Jewish medical ethics. The concern is that a doctor might remove certain organs before the donor is halachically dead, he pointed out. However, he said, if the donor is dead, donation of the organs should be mandated to save a life or lives, "It should be a communal obligation as well."

## *Defining death*

The original Jewish legal definition of death is the irreversible cessation of respiration as discussed in Masechet Yoma and later by the Rambam and by Rabbi Yosef Caro in the Shulchan Aruch, explained Dr. Rosner. "Nowadays," he said, "we also have cardiac standstill. When heart transplants began in 1968

with Dr. Christian Barnard in South Africa the medical community felt that we needed a new definition of death and that's when the controversy in Halacha started." The new definition of death is termed brain death or brain stem death. Brain-stem death is often a result of head trauma damaging the brain stem so the patient cannot breathe on his own. Today, respirators can keep the heart and other organs viable for hours or days after brain function ends.

Rabbi Moshe Tendler defines brain-stem death as the death of cells of the brain that control respiration. This point is made clearly in Yeshiva College, he said, but not taught elsewhere.

The two viewpoints on the determination of death are cardio-pulmonary death and brain-stem death. The first was determined, said Rabbi Tendler, when the chevra kadisha would put a feather on the nose of the person to see if he was breathing. Comatose patients, he noted, are not considered dead. Analyzing brain death, the Mishna declared a decapitated person dead and, in Masechet Chulin, discussed Eli HaCohen, who fell and broke his neck and was thus declared dead. "Certainly his heart was still beating but the severance of the connection between the head and body is death," said Rabbi Tendler. "He was physiologically decapitated," thus brain stem dead.

## *Gotta give to get*

Rabbi Tendler pointed out the problems of inadequate organ donations in the Jewish community, particularly in Israel. He noted that even secular Jews are reluctant to donate from cadavers



I, Rabbi Yaacov Warhaftig, agree to donate all my organs for transplant - not for research - only after (the option checked below):

☒ Irreversible cessation of autonomous breathing (as confirmed by brain-stem death).

☐ Irreversible cessation of heartbeat.

*Any and all preparations for transplant may begin only after consultation with a family appointed Rabbi. All medical procedures must be done with utmost care, respect, and minimum damage to the cadaver.*

Family Contact:  Phone:

Family Contact:  Phone:

This organ donor card from the Halachic Organ Donor Society specifies which halachic definition of death the bearer subscribes to; available at [www.hods.org](http://www.hods.org)

out of concern for desecration of the dead. He said if we don't give, we will not be able to get. This endangers Jewish lives. Currently, no Israeli can get organs except in the United States. The most important mitzvah is saving a life, stressed Rabbi Tendler, overriding every mitzvah in the Torah except for the three cardinal sins: murder, idol worship, immoral relations. As such, it also overrides the mitzvah of burial and respect for the dead.

### *What does Rav Moshe say?*

Rabbi Tendler said his father-in-law, Rabbi Moshe Feinstein, zt"l, intensively studied the issue of organ donation over the course of two years. In Igros Moshe, part 2 of Yoreh Deah, Rav Moshe wrote to Rabbi Weiss of Manchester that "organ donation is a great mitzvah and should be done." Rabbi Weiss responded that families will "suffer great anguish when their loved ones are mutilated." Rav Moshe countered that, "the main mitzvah is not to feel anguish when you're saving a human life. Nothing can give you greater joy than that."

### *Always consult a rav*

There are two types of organ donation, noted Rabbi Dr. Aaron Glatt,

donations from a living donor and cadaveric organ donations. Dr. Glatt is Chief Medical Officer and Acting CEO/President of New Island Hospital in Bethpage, and former Associate Dean and full Professor of Clinical Medicine at New York Medical College. He is also Assistant Rabbi at the Young Israel of Woodmere and at Congregation Anshei Chesed in Hewlett, NY. All cases must be discussed with a rabbi, he stressed. The vast majority of donations from a live donor are allowed, he said. It's a mitzvah to donate from a cadaver as well, but each case requires a halachic decision.

"There is a great controversy of whether heart or lung donation is acceptable," said Rabbi Glatt. "Many halachic authorities do not recognize brain death, and therefore it is technically impossible to donate a heart or lung if cessation of respiration/cardiac function is the halachic criteria of death. This is not so with kidney, cornea, skin or bone and certainly bone marrow and blood."

He also noted the halachic concern with the blanket consent to donate found on the backs of drivers' licenses.

"There's got to be some sort of caveat to do it," agreed Dr. Mark

Singer. Dr. Singer is a cardiologist affiliated with Long Island Jewish Hospital who has lectured on organ donation and halacha. "Without halachic guidance one can go down a slippery slope. We are so careful about talking to a rav about kashrus and other issues, when it comes to matters of life and death a rav should be consulted as well. It's important that not only the patient's family consult a rav, but that the doctor should consult a rav as well."

As a physician Dr. Singer said he is never without a phone number to contact a particular rav with whom he regularly consults.

### *Donation or obligation?*

A properly designed organ donor card is part of the mitzvah, said Rabbi Tendler. "An organ donor card that specifies, yes organ donation is my will, but under the supervision of my Rabbi."

"People who want to do the mitzvah should carry an organ donor card," he emphasized. The unique organ donor card of the Halachic Organ Donor Society allows people to choose between the two halachic definitions of death, thus circumventing the controversy altogether ([www.hods.org](http://www.hods.org)).

"Blood transfusion is life saving and risk-free to the donor, who therefore has no choice. That doesn't apply to a kidney or liver transplant from a live donor. But post-death, there is no danger to the donor, then an absolute obligation exists.

"Unfortunately, our Rabbanim are not coming out strongly enough to let (people) understand that just as it's an obligation to wear tzitzit and make kiddush, it is also an obligation to save a human life.