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YU ethics expert censures rabbis over brain-stem death

By JONAH MANDEL
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Rabbi Dr. Tendler determined that brain-stem death constitutes halachic death; "our rabbis don't have the necessary background to understand it."

Scientific ignorance can be dangerous, especially when people with inadequate knowledge are faced with and decide upon questions that demand expertise.

So how is it that some rabbis, who are great Torah scholars but not necessarily medical experts, claim to overrule science in determining the moment of a person's death, regarding questions of organ donation? A conference at the Bar-Ilan University on Tuesday, part of its Nitzozot study series, dealt with case studies in Jewish bioethical decision-making: brain-death and advanced genetic management.

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In the early 1990, Rabbi Dr. Moshe D. Tendler – a biology professor and Jewish medical ethics expert at the Yeshiva University, and rosh yeshiva at the Rabbi Isaac Elchanan Theological Seminary – developed for the Rabbinical Council of America a health care proxy that determined that brain-stem death constituted halachic death. A few months ago, a special committee of the RCA, composed of members who do not have the scientific credentials of Tendler, backed away from its previous stance.

"We underestimate the effort needed to understand the advances in biomedicine, people who are trained – doctors, etc. – have trouble keeping up with the field," Tendler told *The Jerusalem Post* at the end of the conference. "Our rabbis enter the field at its most advanced stage, without the background necessary to understand it."

"The idea that greatness in Torah is adequate to make up with this deficit in education, is erroneous. Lo bashamaim hi – the Torah is down on the earth. Therefore, Rabbi Moshe Feinstein waited two years before he could answer the question [on whether brain-stem death qualifies as death]," Tendler said of his late father-in-law, the supreme rabbinic authority for Orthodox Jewry of North America and one of the greatest halachic adjudicators of the generation.

"During this time, in addition to info I provided him, he had personal contact with leaders in the scientific field," Tendler noted.

“After seeing patient after patient who were brain dead, and the protocol according to which the death was determined, [Feinstein] was confident to say that breathing by machine was no evidence of life, nor was a beating heart.

“Death occurs in three stages,” Tendler continued. “There is organismal death, in which an organism no longer functions – that is brain-stem death. There is then organ death – but after the organism [the body in this case] dies, the organs stay alive for a period of time, enabling transplants. The third stage is cellular death – putrefaction. In Halacha, we are required to bury our dead early, to prevent desecration.

“Removing an organ [from someone organismically dead] to enable another person to live is not desecrating; rather, [it is] honoring the dead,” Tendler said.

Regarding the recent case of Avi Cohen, Tendler mused that “when people die, they all become haredim.”

The unobservant soccer star’s family decided to not donate his organs, despite a green light to do so from Chief Sephardi Rabbi Shlomo Amar. What swayed the family’s initial intention to live up to Cohen’s will, evident in his bearing an ADI organ donor card, were threats from a former soccer player turned haredi and his rabbi – that they would be murdering the father if they donated his organs.