

Choose Life – For our Health and for our Country’s Health Care

Adam Stock Spilker, Rabbi / Mount Zion Temple

September 27, 2009 / 10 Tishrei 5770

Blessed are You, Adonai, Who with wisdom created the human body with ducts and conduits, vessels and membranes. It is abundantly clear that should but one part of this marvelous structure be open when it should be closed, or blocked up when it should be free, we could not stay alive or stand before Your Presence. Baruch Ata Adonai, rofeh chol basar u'mafli la'asot. Blessed are You, Adonai, the wondrous Healer of all flesh.

This prayer in the daily morning service is one of the oldest in our prayer book. It is meant to be said not only in synagogue but privately at home as well.

On this night – perhaps the most awe-inspiring eve of the year – we reflect on life and our mortality. We focus on what is in our hands to change. We acknowledge what is beyond our abilities. And we thank God for the true miracle of life: how much remarkably works in our body day in and day out. “If but one part of this marvelous structure [were to fail] ... we could not stay alive...”

All bodies of flesh and blood inevitably do fail. When this happens, and even before, Judaism has three clear mandates: we care for our bodies, seek out a physician and visit the sick. As powerful are our prayers, they are not in any way a substitute for human action.

Tomorrow we will read in the Torah, “I have set before you life and death....*u’vacharta ba-chayim* therefore choose life, that you and your descendents may live.” [Deut 30:19]

When we care for our bodies physically, mentally, and spiritually, when we seek medical attention, and when we visit people who are ill, we are choosing life. This is a mitzvah, a sacred obligation, that falls upon each of us as individuals, upon physicians and health care providers and upon us all as a society.

I will speak to some of these areas of responsibility with the help of your stories that many sent to me over the past week. I do so knowing that this is in no way scientific. What emerges does not solve the issues facing health care in America. These stories of struggle and success simply illustrate that we are all in this together. Our very lives, and our desire to keep our bodies healthy, are inextricably linked.

And this is clear: it is all of responsibility to promote good health and, in addition, to create an equitable and quality health care system. This rests upon each of our shoulders, as individuals, as health care providers, and as a society.

***U’vacharta BaChayim* - Choose life – Our Individual Responsibility**

Caring for our bodies is a religious duty. Questions of nutrition are treated with the same respect in the Talmud and later Jewish law as complex ritual laws. Countless pages deal for instance with the ills of particular foods. Rabbi Akiva warns about eating anything we know harms us: “One who eats foods that do not agree with him transgresses three commandments, in that he has despised himself, despised the foods and recited a blessing improperly.” *Avot d’Rabbi Natan 26*. In general, when it comes to eating and drinking, moderation is the guide word of enjoying the fruits of this world.

One congregant wrote to me that all the medicine and health care in the world counted a lot less, in his book, than his decision to eat better and go the JCC every morning to exercise. He certainly didn't discount the role of the medical field. He just knew that he had to be the first to care for his body; he even saw it as his civic duty. Another woman spoke about quitting smoking 35 years ago as her personal contribution to America's health care system. One person, speaking for many, wrote about the power of a stranger's visit in her getting better and how that inspired her to be trained in *bikur cholim*, visiting the sick, and helping others in this way.

Once when the sage Hillel had finished a lesson with his pupils, he accompanied them partway home. "Master," they asked, "where are you going?" "To perform a religious duty," he answered. "What duty is that?" "To bathe in the bathhouse." "Is that a religious duty?" they asked. "If somebody is appointed to scrape and clean the statues of the king that stand in the theaters and circuses, is paid for the work, and even associates with the nobility," he answered, "how much more should I, who am created in the image and likeness of God, take care of my body!" [*Leviticus Rabbah 24:3*]

There was a clear understanding that cleanliness guarded against disease. As early as the Talmud, we are taught: "Washing your hands and feet in warm water every evening is better than all the medicines in the world." *Talmud Shabbat 108b*

Thus, the mandate for health care rests upon the individual first: "It is forbidden to live in a town that does not have a physician" [Jerusalem Talmud, Kiddushin, ch 4, mishnah 12] There is also no question, that sickness does not mean go to the temple or synagogue. The Talmud says it plainly: "If you're in pain, go to a physician!" [*Talmud Bava Kamma 46b*] And even before illness, preventative care is required. A midrash teaches, "Pay homage to the physician before you need him" [*Shemot Rabbah 21:7*]

Each of us is responsible for caring for our bodies, for mental health, proper nutrition, exercise and seeking medical care as well as shouldering the costs for that care first.

U'vacharta BaChayim - Choose life - The Responsibilities of Health Care Providers

Many outstanding rabbis and Jewish scholars also achieved fame as prominent physicians. Mar Samuel in the Talmud discovered an ointment for curing certain eye diseases. The most well known doctor in Jewish history was the 12th century philosopher and rabbi, Maimonides, who served as personal physician to the family of Sultan Saladin of Egypt. To this day, Jews are disproportionately represented in providing health care and in discovering medical advances.

The role of the physician and the financial compensation is summed up in the 16th century definitive law code by Joseph Caro: "A physician may not accept a fee for giving advice to a patient, because in sharing learning and wisdom with his patient, he performs the religious duty of restoring health to a person who has lost it. And just as God performs his services gratuitously, so should a physician. However, a physician may accept payment for the time he spends in visiting a patient, and the trouble he takes to write prescriptions." [*Yoreh Deah, ch 336, section 2*] While the Talmud also warns that "A doctor who charges nothing is worth nothing!" [*Talmud Bava Kamma 85a*], there are many times the need to care for the poor is stated. A 10th century Jewish Doctor's Guide says:

“Make it your special concern to visit and treat poor and needy patients, for in no way can you find more meritorious service.”¹

Among the stories I received, several were from physicians. Most spoke about problems they see in the whole way the health care system is set up. A pediatrician wrote about a patient who was denied insurance coverage for ear tubes because of having had an ear infection two years prior. One spoke about how almost every week someone comes to him in a panic having lost their job and wanting to take care of X right away because their insurance would end, whether X was to refill a prescription or even to schedule surgery that had been put off. One patient in her late 50s with diabetes and heart disease lost her job. Without her medications, she would have been in the hospital in a matter of weeks. Over the next six months, the doctor was able to string along resources to keep her going until she found a new job. I know he is among many health care providers doing whatever they can to keep medical care going in the absence of a fully functioning system. He also was struck by how much patients are trying to do by e-mail or phone to avoid the co-pay of a visit and how many have switched to high-deductible insurance plans. The result is that they are no longer doing any of the preventative care and check ups that they should, with results that can unfortunately be foreseen.

One doctor diagnosed a modern challenge: “Most health workers chose medicine as a covenant between a healer and a sufferer and are dismayed to find the reality of how we pay for care. In the current environment, when reimbursement for tasks rather than health is the model, cynics take jobs with good life-style hours, opportunists take consulting roles and idealists now often leave the system and go to 3rd world nations to rediscover the patient centered model.” Other physicians concurred that the payment model for health care is fundamentally broken in many areas, and some spoke about the ways they hold up their idealism nonetheless.

In choosing life, while the individual has primary responsibility for his or her body, the physician’s role is *pikuach nefesh*, saving human life. This mitzvah of saving life, importantly, is not the doctor’s alone. “The *mitzvah* they perform is *our mitzvah*, not just theirs” says a 1993 responsa by our Reform movement. “Thus, if it costs money to perform the *mitzvah*, that expense ought to be borne by the community, by all of us together, and not by doctors alone. It is arguably unfair to require that physicians treat indigent patients without adequate compensation.”

U’vacharta BaChayim - Choose life - Our Society’s Responsibility

What is our societal role in health care? It is to create a system that includes everyone; it is to balance the costs of that system with other priorities recognizing that health care is a basic right.

The *Shulhan Arukh* addresses the issue of communal costs and priorities: “There are those who say that the commandment to [build and support] a synagogue takes precedence to the commandment to give *tzedakah* to the poor] but the commandment to give money to the youth to learn Torah or to the sick among the poor takes precedence over the commandment to build and support a synagogue.” Thus education and health care for the poor are singled out as priorities for the community.

¹ Isaac Israeli, who lived to be 100, was an Egyptian physician and philosopher who wrote this guide.

When we don't live in self-contained Jewish enclaves, Jewish legal history is clear that our "community" is the nation to which we belong. When America is our "community" and as our nation grows, things become more complex when the scale of communal care is so much larger than at any time in history.

And of course, costs today are also much greater than ever, consuming more and more of our economy. On an individual level, it used to be that one would go to the doctor mostly for their primary "tool" of blood-letting. Today, some preventative care requires scans by multi-million dollar machines. What does "affordable" mean with such expensive advances?

Other questions are equally challenging: Are drugs that took millions to research and develop a right? Will curtailing drug and device company profits hinder the search for new cures? Should health care be a profit industry? Should patients, even with insurance, consider cost before considering a procedure? If 85% of medical costs occur in the last six months of life, do we have a moral responsibility to think twice about end of life care while preserving our value of life? What is the role of the government in insuring safety and access to care?

However our society answers these daunting questions, Judaism provides clear values. The Torah reminds us constantly. Who are we are commanded to care for? The widow, the orphan, the stranger. Why these three? Because they have no voice, no power.

Listen now to the questions raised by your stories:

One congregant is supervising an employee who is not doing her job well which results in cost overruns and her responsibilities being shifted to others. It is clear that she needs to be let go. The challenge is that this employee has had poor health for five years and is now caring for a husband who is facing his own catastrophic illness. I quote: "If I do let her go, she will have no healthcare for her family. I feel letting her go would be literally contributing to both her and her husband's deaths in the future. If I don't let her go, I feel I am hurting the anonymous others who rely on this organization for help because of delays in service."

The connections between employment and health care was a theme for many who wrote. Many have put off retirement strictly because of needing health insurance.

One who recently found out he has diabetes, which is now under control, has had to put aside his dream of joining the Peace Corps because he can't leave his job and its health insurance. Another congregant had a great job opportunity that would have been good for his career and his family. The only thing was that he would have had to get his own health insurance. However, a small but malignant mole that he had successfully removed a few years earlier meant that he could only get insurance that would exclude any future cancer treatment. He was not able to take the new job.

One person, young and in good health, lost his job. He decided to buy the Cobra insurance on a whim. A few weeks later, while painting his house, he fell off a ladder and sustained a traumatic brain injury. His insurance and the Veteran's Hospital paid for much of the months of care except for one week during which he was not covered which came to \$32,000, depleting his life savings and savings for his and his fiancé's wedding.

It was a price he was willing to pay. He counts himself as a success story of modern medicine, now fully functioning except for some momentary memory loss.

Several people wrote about experiences as patients. One spoke about feeling incredibly fortunate to have the skilled surgeons who treated her and the insurance that made it possible. Her two day stay in the hospital would have cost her entire annual income.

Another who recently underwent surgery found that his co-pay for a surgery that was well over \$60,000 was only \$55 which was itself covered through another reimbursement program he has at work. He was struck by, in his words, "the vast and utter disparity between those that have good coverage and the many who don't." He also would have been willing to pay a 'fair share' to help the larger system. Many wrote to me concurring with the feeling that their insurance allowed them to seek the preventative care or the treatment that has literally saved their lives...and yet they had the gnawing knowledge that millions don't have this care.

One congregant witnessed the contrast in coverage for her parents. Her mother was able to retire at age 55 and then lived with rheumatoid arthritis for another 23 years. The treatments were covered 100% during that time by her former employer. Her father, however, had to work until weeks before his death at age 82. After his passing, the medical bills came pouring in, many of which had mistakes which took six months of phone calls and letters to straighten out. A physician wrote about having to navigate through the bureaucracy of health insurance when her husband was once denied coverage moments before his surgery. As well, during his two years of treatment beforehand, this physician's job changed insurance three times. Each time, she had to argue for hours to keep her husband's doctors from being changed. Her final reflection was that she knew how to navigate the system, but wondered how a lay person would have managed.

A success story: a congregant was friends with a man who came here from Mexico working here as a landscaper. He had an accident but did not realize the severity of the injury to his hand. Over the following 2 weeks, he continued going to work, moving rocks and dirt. When our congregant found out, he took his immigrant friend to Hennepin County Hospital where he was treated with respect and dignity and given the highest quality of service anyone in the world could imagine. The follow up of care was equally impressive. When he went to make an installment on the payment, he was told, "No thank you, it is not necessary as there is a fund set up for these types of situations and the balance was zero." The congregant wrote: "We live in a remarkable state, and our society does wish to do the right thing many a time."

Another writes, in his words, "how in the vast majority of cases, the system works." His father was suffering from a condition he had years ago. Two separate hospitals gave their opinions about treatment. A third from Mayo, using a test the other two had not thought to administer, found the real issue and was able to treat it successfully. Had the first two opinions been followed, not only would the situation not have been fixed, but there would have been a lot more waste. The success is not only in the healing, but in the insurance covering all of the opinions and tests.

And there you have it, a mixed landscape of experiences: individual successes shared by many, but too many having life decisions directed by desiring health insurance and too many uninsured.

Recently, a Harvard Medical study showed that 45,000 people die each year because of lack of insurance. Even if it were one, it is a *shanda*. Millions of dollars are now being spent to lobby on some of the most important decisions of this generation. Yet individual voices, especially when joined, also speak powerfully.

Mount Zion's Board of Directors with full congregational input resolved in January: "Mount Zion Temple supports future efforts to make comprehensive health care more accessible to the uninsured and underinsured ... population in Minnesota." This statement does not link us to any political agenda necessarily; it links us to our values of priorities, of protecting the widow, the orphan and stranger - or today, protecting those who are unable to get insurance. In a country such as ours, it is natural that honest, intelligent and well-intentioned people are going to differ about how to fix health care. And that is the role of politicians, to find some reasonable compromise.

And now is the time.

The President of the Reform Movement, Rabbi Eric Yoffie said at the last Biennial: "Every uninsured family is a catastrophe waiting to happen. The time has long since passed when our leaders should have done what every other advanced country has somehow managed to do: provide all its citizens with essential health care."

The ethicist Rabbi Eliot Dorff says it succinctly: "Only through effective and accessible health care, both preventive and curative, can we fulfill our fiduciary responsibility to God to safeguard our bodies." Each of us is responsible: individually as well as our health care providers and our society as a whole. We can choose life, *uvacharta bachayim*, when we take care of our own bodies and help others in our society do so as well. Then we will truly partner with God when we say:

Blessed are You, Adonai, Who with wisdom created the human body with ducts and conduits, vessels and membranes. It is abundantly clear that should but one part of this marvelous structure be open when it should be closed, or blocked up when it should be free, we could not stay alive or stand before Your Presence. Baruch Ata Adonai, rofeh chol basar u'mafli la'asot. Blessed are You, Adonai, the wondrous Healer of all flesh.