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Rabbinate okays death determination

By MATTHEW WAGNER



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The Chief Rabbinate's governing body approved legislation Tuesday night that could facilitate organ transplants after brain death.

However, the decision might spark a battle between more haredi rabbis and their more moderate peers.

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In a unanimous vote, the Supreme rabbinical Council, which included the two chief rabbis of Israel and over a dozen city rabbis, agreed that present legislation, which provides directives for deciding when a person is official considered dead to permit disconnecting from life support and removal of organs for organ transplant, is in accordance with Halacha.

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Already in 1986, the Chief Rabbinate, which was headed by Sephardi Rabbi Mordechai Eliyahu and Ashkenazi Rabbi Avraham Shapira, determined that brain death, not permanent cessation of heart beat, was what defined clinical death according to Jewish law.

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However, for years there was no legislation in place that ensured adherence to the criteria set by the Chief Rabbinate.

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Over a year ago, MK Otniel Schneller (Kadima) drafted legislation that set in place a supervisory body that carefully monitored cases of brain death to make sure that the religious strictures required by the Chief Rabbinate were followed.

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On Tuesday night the Chief Rabbinate's governing body unanimously ratified Schneller's legislation, declaring that it met the criteria set by the Chief Rabbinate.

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Another issue raised by Chief Ashkenazi Rabbi Yona Metzger on Tuesday was the creation of a new type of organ transplant program called "Areivim".

With "Areivim" potential donors would be allowed to choose between brain death and the more stringent permanent cessation of heart beat. If they were fatally wounded and were in a position to donate their organs, doctors would only remove the organs after death had been determined in accordance with their choice - either heart cessation or brain death.

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However, Chief Sephardi Rabbi Shlomo Amar refused to allow the governing body to discuss Areivim. A source in the Chief Rabbinate said that Amar feared he would be attacked by the Ashkenazi haredi rabbinic leadership headed by Rabbi Yosef Shalom Elyahsiv. In the past Amar has been attacked for suggesting that organs could be removed from a Jew who suffered brain death while the heart was still beating.

Amar's spokesman said that the Chief Sephardi rabbi had not yet formulated his opinion on the issue of organ transplants after brain death. Therefore, he did not want to discuss Areivim.

Meanwhile, Chief Rabbi of Safed Shmuel Eliyahu, who is a member of the Supreme Rabbinical Council, and who supports the "Areivim" program as a more "kosher" alternative to the present Israel Transplant Program known as ADI, said that there was no haredi opposition to Areivim.

"Although Rabbi Elyashiv personally holds that heart cessation is what determines death he does not rule out my father's [Mordechai Eliyahu's] position that brain death is death according to Halacha. Therefore, an individual can be allowed to choose between the options."

A spokesman for Metzger said that he has yet to formulate his position in the Areivim program. Metzger wished to bring Areivim before the rabbinat's government body to stimulate debate.

According to the spokesman Metzger, who was elected as Chief Ashkenazi rabbi with the support of Elyashiv, has not consulted with the nonagenarian rabbi, considered the preeminent halacha scholar among haredi Ashkenazi Jewry.

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