Jewish medical oaths and the Hippocratic oath parallel each other in their emphasis on the palliative aspect of medical care. In Judaism, the alleviation of pain and suffering is a mitzvah. Certain conditions such as migraine headaches, Alzheimer’s, muscle spasms, fibromyalgia, arthritic pain, glaucoma, and nausea induced by chemotherapy are alleviated by the use of marijuana. If marijuana is superior to other drugs in treating these conditions, it is crucial that the administering of medical marijuana be halachically analyzed [1].

To begin, it is important to analyze some of the evidence found in support of the usage of medical marijuana. Most of the research conducted has involved cannabinoids, which are the best-known active ingredients in marijuana. In 1997, the Office of National Drug Control Policy commissioned the Institute of Medicine (IOM) to weigh the potential risks and benefits of marijuana. In 1999, the IOM concluded that cannabinoids have some potential to relieve pain, control nausea, and increase appetite [2]. Also noted was that cannabinoids probably affect the control of movement and memory, so patients using marijuana should not drive a car. However, its effect on the immune system was not definitive [3]. The IOM also stated that smoking marijuana might be a risk factor in the development of lung disease and certain types of cancer. Marijuana has shown clinical promise for the treatment of symptoms related to glaucoma, nausea and vomiting, analgesia, spasticity, multiple sclerosis, and AIDS [4].

To determine whether or not Judaism allows a physician to prescribe marijuana, different halachic concepts must be systematically analyzed and discussed. The first halachic aspect that needs to be analyzed with regards to the usage of medical marijuana is the principle of dina d’malchuta dina (the law of the land) [1].

Dina d’malchuta dina stipulates that, as Jews, we must abide by the laws of the land in which we live. This means that even if Jewish law permits the distribution of medical marijuana in a state where it is illegal, a Jewish physician would still not be able to use medical marijuana to treat his patients. In other words, we would still be expected to follow the law of the land and be honorable citizens. By being righteous and responsible citizens, we are, in fact, being a light unto the other nations. That being said, people might think that since marijuana is an illegal drug, its use is halachically forbidden as well [1].

Furthermore, Rabbi Moshe Feinstein believed that (with regards to recreational usage) marijuana limits a person’s ability to demonstrate free will by altering his or her sense of reality and impairing his or her judgment.

Currently, the usage of medical marijuana has been legalized in sixteen states and in Washington, D.C. These sixteen states include Alaska, Arizona, California, Colorado, Delaware, Hawaii, Maine, Michigan, Montana, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, and Vermont [5]. Despite the legalization of medical marijuana in these states, the United States Supreme Court has ruled that medical necessity does not justify the allocation of marijuana.

However, it is important to realize that dina d’malchuta dina applies only to matters of monetary, commercial, or civil law, not to religious law. In areas where the State has a legitimate interest for the smooth functioning of society, dina d’malchuta dina applies. This includes taxes, traffic regulation, safety, etc. Laws that impact religious and cultural areas of life, however, are excluded from dina d’malchuta dina. Since the alleviation of pain and suffering is a religious law, the concept of dina d’malchuta dina does not apply with regards to the use and distribution of medical marijuana [1].

The next halachic analysis of medical marijuana would therefore be to determine the prudence of the physician prescribing the drug. Knowing that the alleviation of pain and suffering is a mitzvah, how far must a physician go to alleviate a patient’s pain by prescribing medical marijuana? In Vayikrah 19:16 it is written, “Neither shalt thou stand idly by the blood of thy neighbor.” According to this verse, Jews are commanded not to stand idly by while someone’s life is slipping away. Tosafot maintained that living with pain is much worse than death itself [1].
The next balachic aspect that must be analyzed with regards to medical marijuana is the impact the drug may have on the patient’s ability to perform other mitzvot. According to the scientific literature, recreational marijuana can cause feelings of euphoria, short-term memory loss, difficulty in completing complex tasks, changes in perception of space and time, as well as the inability to concentrate [2]. Furthermore, Rabbi Moshe Feinstein believed that (with regards to recreational usage) marijuana limits a person’s ability to demonstrate free will by altering his or her sense of reality and impairing his or her judgment. Therefore, this person would not be able to act responsibly and fulfill crucial mitzvot, such as prayer [1].

This article is not dealing with recreational marijuana, but rather medical marijuana that relieves the symptoms of many health conditions and the pain associated with them. Under Jewish law, the violation of Shabbat is permitted for a seriously ill person, and individuals in even minor discomfort are relieved from other religious obligations. According to Jewish law, there is no genuine distinction between illness and pain. There is, however, friction regarding the extent to which pain justifies exemption from religious law. A minute, localized pain does not warrant any religious exemption. On the other hand, severe pain throughout the entire body that would accompany a real illness warrants exemptions from religious law. According to Rabbi Yair Bachrach, exemptions from religious law are allowed only in cases of severe pain. However, according to Rabbi Chaim Yosef David Azulay, these exemptions are warranted by a person in any amount of pain [1].

This notion of a person’s duty to heal is reflective of Judaism’s view that the human life is of utmost importance and value. This can be seen by the fact that almost any Jewish law can be violated to save a person’s life or prevent a life-threatening situation from occurring [1].

Medical marijuana is used to relieve patients from the symptoms of AIDS and chemotherapy. It is also used to treat glaucoma. Each of these conditions is viewed by Jewish law as being a potentially life-threatening situation. If Shabbat and other laws can be violated in these situations, surely the distribution of the illegal drug marijuana is allowed here as well. Also, assuming no other treatments have worked or are available, marijuana may also be allowed in non life-threatening situations such as migraine headaches. After all, it is a mitzvah not just to save a life, but to alleviate pain and suffering as well [1].

The fourth balachic aspect that must be taken into consideration with medical marijuana is the idea of self-endangerment. There are a number of potentially dangerous side effects associated with marijuana, including short term memory loss, difficulty in completing complex tasks, changes in the perception of time and space, anxiety, confusion, low blood pressure, rapid heart beat, and heart palpitations [2]. Most researchers also believe marijuana contains numerous carcinogens (50-70% more than tobacco smoke) [6]. Marijuana can cause a decrease in reproductive function, increase the risk of lung disease, as well as increase the risk for lung, mouth, and tongue cancer [2]. Most recently, marijuana has also been linked to the etiology of many major psychiatric conditions, such as depression and bipolar disorder [7].

While Jewish law prohibits the act of self-endangerment, there are acceptable risks that can be taken when involved with routine activities. For example, driving a car can be a dangerous activity but society has deemed it to be a routine part of life. It is important to realize that all activities have some or another form of risk associated with them. Whether it is taking a subway or walking down stairs, both of these seemingly mundane activities pose some form of a potential risk. The Talmud states that risks which have become socially conventional (e.g., driving a car) are acceptable. Halacha dictates that analgesics may be given to a patient even at the risk of possibly shortening his or her life, as long as the purpose is to achieve relief from acute pain [8].

Rabbi Eliezer Yehuda Waldenberg was asked a question by Rabbi Professor Avraham Steinberg about an incurable patient who was in a great deal of pain. Rabbi Steinberg asked if it would be permitted to raise the level of pain relief medicine, such as morphine, even if it did not treat the underlying disease and could, in fact, hasten death. Rabbi Waldenberg replied that as long as the medicine was prescribed by the physician for the purpose of relieving pain, it is permitted even if the medicine hastens the patient’s death. By administering a higher dose of morphine, the physician is reducing pain [8].

The final aspect of medical marijuana that will be discussed here has to do with compassion. Richard Greenberg, a freelance writer in Washington, D.C., discusses compassion as one of the first of Hashem’s thirteen attributes mentioned in the Torah. We recite these attributes three times on Rosh Hashanah and Yom Kippur. Since Jews are commanded to behave in the image of G-d, we are, by extension, commanded to act with compassion [9]. If a physician is able to relieve a patient from his pain and suffering, and the treatment is halachically acceptable, there is a good argument to allow the prescription of medical marijuana [1].

Based on the literature, it seems that physicians may prescribe medical marijuana according to Jewish law. In fact, addictive narcotics are regularly prescribed for the purpose of relieving pain, a practice mandated by halacha. However, one still must take into
consideration the conflicting values of pain relief and the potential threats marijuana can pose to a patient’s health. Rabbi Shlomo Zalman Auerbach ruled that even on Shabbat, one must relieve a person of his pain, even if just for a limited time. There are numerous halachic aspects of medical marijuana, which must be taken into account when analyzing its permissibility in Jewish law. What remains clear, is that both sides of its use must be looked at— its pain relief capabilities and its potential threats.

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