

Suit seeks to exempt physicians from assisted suicide law

February 11 2015, bySudhin Thanawala

A cancer patient and five doctors filed a lawsuit Wednesday seeking to exempt physicians who help terminally ill patients end their lives from a California ban on assisted suicide.

Physicians who provide such assistance are not helping the patient commit suicide, but instead giving them the option of bringing about a peaceful death, according to the lawsuit filed in San Francisco Superior Court.

The plaintiffs cite the case of Brittany Maynard—a young California woman with brain cancer who moved to Oregon to legally end her life with the help of doctors.

Maynard's family is not involved in the suit.

"This case is about letting the patient, the individual, script the last bit of their journey through life," Kathryn Tucker, an attorney representing the plaintiffs, said at a news conference announcing the lawsuit.

Opponents say prescribing life-ending medication violates a doctor's oath to do no harm. They also fear some sick patients would feel pressured to end their lives because of elder abuse or insurance costs.

"Where assisted suicide is legal, some people's lives will be ended without their consent through mistakes and abuse," said Marilyn Golden, senior policy analyst with the Disability Rights Education & Defense

Fund. "No safeguards have ever been enacted or even proposed that can prevent this outcome, which can never be undone."

Golden said patients who are suffering already have an option—sedation—to ease their pain.

Maynard, a 29-year-old San Francisco Bay Area resident, made her case public with online videos viewed tens of millions of times saying she should have been able to legally obtain life-ending drugs in California.

Christie White, 53, the cancer patient involved in the California lawsuit, said if her leukemia returns, she will have limited medical options and wants the choice of being able to die peacefully in her home state of California.

"I do not want to have to leave my husband, my family and my friends and move to Oregon," she said at the news conference.

Two of the physician plaintiffs in the case have also had cancer.

California law currently makes it a felony to help someone commit suicide.

Tucker, executive director of The Disability Rights Legal Center, said she was not aware of any doctors who had been prosecuted in California for violating the law, but noted an investigation in another state had a chilling effect on doctors.

Advocates for aid-in-dying laws say Maynard's story has recharged legislative efforts across the nation, including in Pennsylvania, Wyoming, Washington, D.C., and California, where a bill supported by Maynard's mother was recently introduced. Similar bills are also being considered in New York and Colorado.

Five states allow patients to seek aid in dying—Oregon, Washington, Montana, Vermont and New Mexico.

Tucker worked on similar lawsuits that established aid-in-dying in Montana and New Mexico. She said legislative efforts in California have failed before, and only courts can decide whether the state's existing ban on assisted suicide applies to aid-in-dying.

The California lawsuit, which names state Attorney General Kamala Harris and San Francisco District Attorney George Gascon as defendants, says a ban on physician-assisted death would violate the state constitution's guarantee of privacy, equal protection, due process and freedom of speech.

Calls to the attorney general and district attorney's offices were not immediately returned.

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Citation: Suit seeks to exempt physicians from assisted suicide law (2015, February 11) retrieved 25 April 2024 from

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