

Is there a right-to-die?

By: Aaron Carter Bates, Esq.

On November 2, 2014, the following headline hit the newswires, “Brittany Maynard, right-to-die advocate, ends her life.”¹ Mrs. Maynard’s story had captured the nation’s attention in the weeks leading up to ending her life via assisted suicide, but why? What made Mrs. Maynard’s story more compelling than the countless others who lost the battle to terminal illness? Is there a “right-to-die”? Are advocates needed in the development of a recognized “right-to-die”?

My initial reaction to these types of heady issues are “better left to better minds,” but I think I have a decent grasp of both the impact of assisted suicide legislation on the disabled community and the importance of autonomy when facing two (2) separate illnesses designated as “terminal”: spinal muscular atrophy and leukemia. Starting with the micro, while I greatly respect the medical profession, I personally learned a long time ago that their word is far from gospel. Medical prognostication honestly stopped being a real consideration for me as it pertained to my form of muscular dystrophy. I reached a point where virtually everything I was doing was never on the map when I started out, so why would I go back to the “map” looking for a path through new challenges? This mindset eventually took hold when it came to being diagnosed with leukemia, a process that took weeks due to my doctors’ initial unwillingness to consider that someone with SMA could also have a relatively rare form of leukemia. After the inevitable shock wore off, it was again, looking for the next challenge, only something I can discover. Did I consider death? Sure. Did I consider available, or limits in, end-life options? Not really. I had so much to do, so much to live for. So, at this level, I just never reached the point that Mrs. Maynard did, and that’s fine.

However, in the weeks leading up to Mrs. Maynard’s death, something concerning began to happen: the discussion shifted to the lack of availability of assisted suicide options, which necessitated her move to Oregon and the need for autonomy in healthcare options. As a litigator and advocate for the disabled community, I am keenly aware of the problems of assisted suicide legislation within our community and its frightening prospects. In Oregon, where Mrs. Maynard died, there is considerable evidence that people with mental illness and depression are given lethal drugs, despite the claims of proponents that these conditions disqualify a person.² Even alleged legal safeguards are often undermined in Oregon.³ Finally, it is often the feeling of

being a burden on family or caregivers that is the given reason for assisted suicide in that state.⁴

In reality, suicide is not illegal in and of itself. Where was the overwhelming need for “assistance” before this particular story? There is none. Further, there is a host of direct evidence supporting the reality that assisted suicide legislation disproportionately impacts the disabled. Accordingly, as a community, before we jump on the health autonomy train, let’s make sure we know where the train is taking us.

Citations:

1. <http://www.usatoday.com/story/news/nation-now/2014/11/02/brittany-maynard-/18390069/>
2. See Testimony by Dr. Gregory Hamilton focusing on problems posed by assisted suicide in Oregon for people with psychiatric disabilities, at <http://www.pccef.org/articles/art32HouseOfLords.htm>
3. See http://www.spiorg.org/publications/HendinFoley_MichiganLawReview.pdf Michigan Law Review, June 2008, "Physician Assisted Suicide: A Medical Perspective" by Dr. Herbert Hendin and Dr. Kathleen Foley. Herbert Hendin is Chief Executive Officer and Medical Director, Suicide Prevention International, and Professor of Psychiatry, New York Medical College. Kathleen Foley is Attending Neurologist, Memorial Sloan-Kettering Cancer Center; Professor of Neurology, Neuroscience, and Clinical Pharmacology, Weill Medical College of Cornell University; and Medical Director, International Palliative Care Initiative of the Open Society Institute.
4. <http://public.health.oregon.gov/ProviderPartnerResources/EvaluationResearch/DeathwithDignityAct/Pages/index.aspx>