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Advocacy groups want nurse practitioner to perform abortions

Tue., Jan. 30, 2018, 3:04 p.m.

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Associated Press

HELENA – Two advocacy groups that support abortion rights are challenging the constitutionality of a Montana law that allows only physicians and physician assistants to perform abortions.

The Center for Reproductive Rights and the ACLU of Montana filed a lawsuit in District Court in Helena on Tuesday, arguing that advanced practice registered nurses are qualified to perform the procedure.

The plaintiffs – certified nurse practitioner Helen Weems of Whitefish and a certified nurse midwife identified as Jane Doe – “engage in patient care that is comparable to, or more complex, and carries more risk than abortion in the first and early second trimester,” the lawsuit argues.

“Medically unjust laws that prevent qualified clinicians from providing abortion services are unconstitutional,” Nancy Northup, president and CEO of the Center for Productive Rights said in a statement. “They further restrict abortion access in states where it is already limited, while serving no valid medical purpose.”

The challenge is similar to one that played out more than 20 years ago, when state law only allowed physicians to perform abortions.

Susan Cahill, a physician assistant, began performing abortions under the supervision of Dr. James Armstrong in Kalispell in 1977. In late 1992, leaders of the Montana Right to Life Association and the president of Flathead Pro-Life began writing letters to state and local government officials arguing that criminal charges should be brought against Armstrong and Cahill.

In 1993, the Flathead County attorney asked the Kalispell police to investigate. Armstrong and Cahill challenged the law in federal court and a judge issued an injunction preventing the state from enforcing the requirement.

Two years later, the Legislature passed a law specifically making it illegal for physician assistants to perform abortions.

In 1997, the Center for Reproductive Law and Policy filed a lawsuit challenging the constitutionality of that law. The plaintiffs included Armstrong and Cahill, who was then the only physician assistant providing abortions in Montana.

The Montana Supreme Court ruled in 1998 that the state abortion law violated the

constitutional right of a patient to obtain a lawful medical procedure from a health care provider of her choice. State law was later changed to allow physician assistants to perform abortions.

Cahill, who closed her health care clinic in Kalispell after it was badly vandalized in 2014, recently announced she is opening a clinic with Weems in Whitefish.

A similar case is working its way through the courts in Maine. The ACLU of Maine and the Planned Parenthood Federation of America filed a lawsuit last September challenging a state law there that blocks advanced practice registered nurses from performing abortions.

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