

# BENZINGA

## **Physician Sues The DEA For Access To Psilocybin For The Terminally Ill With Ample Support From Experts And Institutions**

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May 25, 2021

A Seattle palliative care physician has filed a lawsuit against the DEA, contesting its decision to ban psilocybin for use by terminally ill patients.

In support of the cause, a coalition led by state attorneys general, civil rights organizations and academics have filed amicus briefs, or friends of the court, meant to provide additional expertise on the issues pertaining to the case.

This week, the suing parties filed an Opening Brief in the Ninth Circuit Court of Appeals arguing that under the state and federal Right to Try Act seriously ill patients have a right to use medicines that are currently undergoing clinical trials, such as psilocybin (the active compound in magic mushrooms) and MDMA.

Unlocking access to psychedelics through this path could bring about new possibilities for end-of-life patients to use psychedelic medicine, which is similar to how Canada is currently allowing access.

### **Background of the Case**

The right to try act protects access to investigational drugs not yet approved for use, taking into consideration that terminally ill patients do not have the time to wait until a drug has been approved.

In January, Dr. Sunil K. Aggarwal, co-director of a Seattle oncology clinic called Advanced Integrative Medical Science Institute, requested permission from the DEA to use psilocybin on patients suffering anxiety or depression. His request came under the right to try, which is observed by the federal legal system as well as Washington State.

In February, the DEA responded with a letter arguing that the exemption could not be granted because psilocybin is categorized as a Schedule I substance.

### **Appeal And Amicus Briefs**

Dr. Aggarwal, the Advanced Integrative Medical Science Institute and two terminally ill patients appealed this decision with the Ninth Circuit Court of Appeals. They argued that the DEA “overstepped the limits of its authority” in failing to recognize that the right to try act requires allowing access to eligible investigational drugs, regardless of their status under the controlled substances act.

Psilocybin is an investigational drug currently undergoing phase 2 clinical trials, as well as a Schedule I narcotic.

A number of state attorneys general filed amicus briefs urging the court to rule in favor of the demanding party. These include Bob Ferguson of Washington State, Mark Branovich of Arizona, Kathleen Jennings of Delaware, Karl Racine of Washington, D.C., Kwame Raoul of Illinois, Dana Nessel of Michigan, Keith Ellison of Minnesota, David Yost of Ohio and Ellen Rosenblum of Oregon.

“DEA’s decision conflicts with the subsequent and more specific federal Right to Try Act, and with the Supreme Court’s admonition that the [controlled substances act] should not be used to regulate medicine,” the state attorneys argued.

A number of other institutions, coalitions and experts also filed supporting amicus briefs, including the Cato Institute, Goldwater Institute, American Civil Liberties Union, End of Life Washington, Washington Psychological Association, Evergreen Health, A Sacred Passage Death Midwifery, Past Presidents of the American Academy of Hospice and Palliative Medicine.

Finally, palliative care specialists Dr. Ira Byock and Dr. Timothy Quill, as well as leading psychedelics researcher Roland Griffiths Ph.D. support the appeal.