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8
9 MONTANA FIRST JUDICIAL DISTRICT COURT,
LEWIS AND CLARK COUNTY

10
11 ROBERT BAXTER, STEVEN STOELB,)
STEPHEN SPECKART, M.D., C. PAUL)
12 LOEHNEN, M.D., LAR AUTIO, M.D.,)
GEORGE RISI, JR., M.D. and)
13 COMPASSION & CHOICES,)

14 Plaintiffs,)

v.)

15 STATE OF MONTANA and MIKE)
16 MCGRATH, ATTORNEY GENERAL,)

17 Defendants.)

Judge: Dorothy McCarter
Cause No. DV 2007-787

AFFIDAVIT OF
C. PAUL LOEHNEN, M.D.

18 STATE OF MONTANA)
19) ss:
20 COUNTY OF MISSOULA)

21 I, C. Paul Loehnen, M.D., being first duly sworn upon oath, depose and state as follows:

22 1. I am a plaintiff in this matter, am competent to testify, and do so of my own
23 personal knowledge.

24 2. I am a medical doctor and received my medical degree from the University of

1 Witwatersrand, Johannesburg, South Africa, in 1968.

2 3. After obtaining my medical degree I studied Internal Medicine and surgery at
3 Johannesburg General Hospital in Johannesburg, South Africa, and then served as
4 a medical officer with the South African Defense Force in South Africa.

5 4. From 1971 to 1973, I was a Fellow in Internal Medicine at the Mayo Graduate
6 School of Medicine in Rochester, Minnesota.

7 5. From 1973 to 1976, I was a Fellow in Thoracic Diseases at the Mayo Graduate
8 School of Medicine in Rochester, Minnesota.

9 6. From 1975 to 1978, I was an Instructor in Internal Medicine at the Mayo Graduate
10 School of Medicine in Rochester, Minnesota.

11 7. I served as a Clinical Instructor (1978 to 1980) and a Clinical Assistant Professor
12 of Medicine (1980 to 1987) at the University of Washington, in Seattle,
13 Washington.

14 8. Since 1987, I have served as a Clinical Associate Professor of Medicine at the
15 University of Washington, in Seattle, Washington.

16 9. I was a Consultant in the Division of Thoracic Disease and Internal Medicine at
17 Mayo Clinic, in Rochester, Minnesota, from 1976 to 1978.

18 10. Since 1981, I have specialized in Internal Medicine and pulmonary medicine in
19 Missoula, Montana. I hold staff privileges at St. Patrick Hospital and Community
20 Medical Center.

21 11. I am a past member of the American College of Chest Physicians.

22 12. I am certified by the American Board of Internal Medicine and the American
23 Board of Pulmonary Medicine.

24 13. I am licensed to practice medicine in the State of Montana and the State of

1 Minnesota.

- 2 14. I was co-author of *Introduction to Respiratory Physiology*, Second Edition, 1980.
- 3 15. My complete curriculum vitae is attached hereto as Attachment 1.
- 4 16. A substantial portion of my private outpatient practice has involved treatment and
5 care of persons with lung diseases such as chronic bronchitis and emphysema,
6 asthma, lung cancer, and pulmonary fibrosis. My hospital practice consists
7 largely of taking care of critically ill patients in the intensive care unit.
- 8 17. In my medical practice, I have regularly treated patients dying from various
9 catastrophic illnesses in the intensive care unit.
- 10 18. Fundamental bioethical principles that guide a physicians's interactions with
11 patients include: (1) the patient's fundamental right of self-determination; (2)
12 respect for the patient's interests; and (3) that respect for the patient's right of
13 self-determination and respect for the patient's interests appropriately guide all
14 care of patients, including the care of dying patients.
- 15 19. In many case, palliative care, in the form of medication, can be used to ease the
16 suffering of terminal patients. Such medication can often be used to alleviate the
17 patient's symptoms so that the patient can be relatively free from pain and
18 discomfort during the dying process. Yet sometimes the patient's pain,
19 discomfort, and loss of dignity can be relieved only through such high doses of
20 drugs that the patient is rendered unconscious. In my years of practice, I have had
21 patients who are in agony because of how painful, uncomfortable, and humiliating
22 the dying process is, and how long it takes for death to end their suffering. Some
23 of these patients have made repeated requests for help in relieving their agony by
24 hastening their dying process.

1 20. I occasionally encounter terminally ill patients with no chance of recovery whom I
2 know to be mentally competent and able to understand their condition, diagnosis,
3 and prognosis who desire to accelerate their death in order to avoid prolonged
4 suffering. These patients cannot accelerate their death without assistance, or can
5 do so but only at the risk of increased anguish and pain to themselves and their
6 families.

7 21. It is my professional judgment that the decision of such a patient to shorten the
8 period of suffering before death can be rational, and on occasion my professional
9 obligation to relieve suffering would dictate that I assist such a patient in
10 hastening his or her death.

11 22. Under Montana's homicide statutes, fulfillment of this professional responsibility
12 may expose me to criminal prosecution. The statutes deter me from treating these
13 patients as I believe I should.

14 23. Montana's criminal homicide statutes have resulted in patients of mine dying
15 tortured deaths.

16 DATED this 30th day of JUNE, 2008.

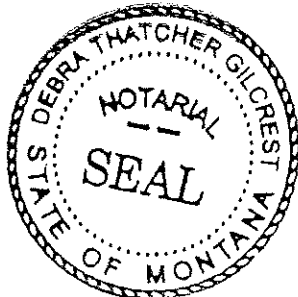


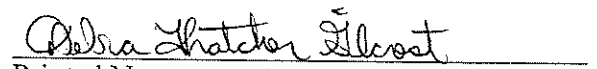
C. PAUL LOEHNEN, M.D.

18 STATE OF MONTANA)
19) ss:
COUNTY OF MISSOULA)

20 Signed and sworn to before me this 30th day of June, 2008 by
21 C. Paul Loehnen, M.D.

(Notarial Seal)




Printed Name: DEBRA THATCHER GILCREST
Notary Public for the State of Montana
Residing at: MISSOULA, MONTANA
My Commission Expires: MAY 23, 2012