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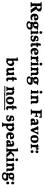
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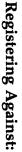
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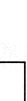
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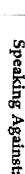
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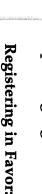
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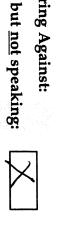
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Vote Record

Senate - Committee on Judiciary, Consumer Affairs, and Campaign Finance Reform

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Vote Record

Senate - Committee on Judiciary, Consumer Affairs, and Campaign Finance Reform

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152 West Wisconsin Avenue, Suite 308 • Milwaukee, WI 53203 • 414/272-2562 • 414/274-3494 (fax) • info@wi-citizenaction.org • www.wi-citizenaction.org

Contact: Roger Bybee 414/272-2562 ext. 215

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May 30, 2001

Families say: courthouse door blocked, Family Justice Bill needed to restore fairness in malpractice cases

A group of Wisconsin families who suffered the loss of a family member due to apparent medical negligence called for passage of the Family Justice Bill "to reopen the doorway to justice," as Jeanine Knox of Milwaukee stated at a news conference at the Milwaukee County Courthouse.

"Wisconsin law suffers from some almost-unbelievable loopholes that prevent family members from seeking justice and accountability, simply based on the victim's age," explained State Sen. Gary George (D-Milwaukee). "If a doctor was negligent on the highway, he or she would be held accountable for any needless loss of life. But when a doctor is negligent on the operating table, many Wisconsin families have no means of seeking justice and accountability. The current law violates every standard of fairness and common sense."

Under current law, Wisconsin is one of just seven states that prohibits malpractice suits from being filed by the parents of children over 18 years of age who die due to medical negligence. It also blocks malpractice cases by the adult children of parents who die as a result of malpractice.

Fighting to restore the right to seek legal redress is the Family Justice Network, a group of Wisconsin families from around the state who have been assisted by Wisconsin Citizen Action, the 53,000-member public-interest watchdog organization. "A leader of the State Medical Society got it exactly right when he testified in 1995,' Claims against physicians should not be treated any differently than claims resulting from automobile accidents or against any other individual," said Roger Bybee, Citizen Action communications director. "But the current state law actually creates a double standard for doctors and other citizens. Worst of all, it closes the courthouse door to suffering families who want justice on behalf of someone they lost."

The news conference included emotion-charged statements from family members whose grief has been deepened by frustration with the present state law:

- ☐ Margaret Davis of Milwaukee, whose 46-year-old mother Alma died due to a poorly-executed biopsy: "Our mother's death demands justice. Open the courthouse doors, don't keep them locked to
- □ Sherry Ellis, whose 67-year-old mother Ellen Kachar of Milwaukee died when her aorta was punctured during the implanting of a pacemaker: "We need Wisconsin to restore the ability of all Wisconsin families to seek justice and accountability for the death of a loved one. Please don't let our mother's death be in vain."
- Peter Torgerson, whose mother Elise died in an Eau Claire when her diabetic condition was improperly treated: "Since this tragedy occurred, the hospital and its legal staff have stonewalled us at every turn. We want to be able to hold the hospital accountable for the horrendous treatment of my
- Jeanine Knox of Milwaukee, whose mother Beverly Jean McIntyre of Milwaukee bled to death during a biopsy: "If this same doctor had killed our mother while driving her car, we as adult children would be able to bring a cause of action for loss of society and companionship. It boils down to one thing: accountability."

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June 5, 2001

Senate Committee on Judiciary, Consumer Affairs, and Campaign Finance Reform

John E. Gebhardt 1064 East Circle Drive Whitefish Bay, Wisconsin 53217

Ladies and Gentlemen, Good Morning.

My name is Jack Gebhardt, I am a resident of Whitefish Bay, Wisconsin. On April 9, 1999, my wife of eighteen years and the Mother of my three daughters was admitted to Columbia St. Mary's Hospital in Milwaukee. On April 13, 1999, my wife died in Columbia St. Mary's Hospital.

As you may know, Columbia St. Mary's Hospital, part of the Horizon Healthcare System, is a regional medical center in the Milwaukee metropolitan area, offering and aggressively marketing a full range of medical services to the Milwaukee community, including Emergency Services, support for Flight for Life, and other life threatening Critical Care Medical Services.

My wife was admitted to Columbia St. Mary's under the care of Dr. Clay Frank, an Orthopedic Surgeon based in Milwaukee, as a result of my wife experiencing several years of severe back pain. This condition was diagnosed by Dr. Frank as a congenital problem, causing severe misalignment of her lower back, and a pinched nerve. Dr. Frank recommended to my wife and I a routine, but major surgical procedure referred to as a Fusion and Decompression. Through this procedure, Dr. Frank would fuse the four lowest vertebrae and remove bone material in order to realign her lower back and create an unobstructed opening for the nerve to pass through her spine into her leg.

Her surgery occurred on the April 9, 2001, and as stated in the Medical Examiner's Report and Autopsy by Dr. Frank, the surgical procedure went "perfectly". On the morning of April 10, 2001, while recovering from the surgery in Columbia St. Mary's, my wife experienced a reduction in blood pressure that caused the attending nurse at Columbia St. Mary's to have her transferred to the Columbia St. Mary's Intensive Care Unit (ICU), two floors away. Dr. Frank was contacted at home by telephone and requested to come to the hospital. At the time of her transfer, my wife was "alert and awake, and speaking to the ICU personnel". At this time, the attending physician was a third year medical student, Dr. Jonathan Bates. In my wife's medical records, Dr. Bates wrote, "As peripheral IV access was gradually being lost, the need for a central venous access was considered, however this writer felt that the risk of improper placement of a subclavian or IJ line outweighed the risk of waiting for the surgeon and anesthesiologist, who were believed to be arriving at any time".

Page 2 June 5, 2001

In other words, Columbia St. Mary's Hospital, a regional medical center, had no one available to adequately serve my wife's Critical Care medical needs. She was allowed to become brain dead as a result of the hospital personnel inaction and/or the hospital having inadequate and/or inexperienced personnel on staff at the time. I would point out to you that at the time of Dr. Frank's arrival to the hospital, he inserted the subclavian or IJ (central venous line), which effectively is an intravenous line (IV) directly into your heart, and revived her. Regretfully, the decision by the third year medical student, Dr. Bates, was a fatal one for my wife. From Friday, April 10 until Tuesday, April 13, critical care staff a Columbia St. Mary's determined that her brain had in fact gone too long without oxygen supplied by her blood, and she was in fact brain dead. I made the decision to discontinue life support. I would point out to you a fact. First, under our present laws, my wife was financially more valuable brain dead but alive, than she was as a corpse. I often wonder if that was indeed a consideration in the very obvious lobbying I received from Doctors and Columbia St. Mary's Hospital personnel to discontinue her life support.

Now, I don't know how many of you have a spouse you love, by I did. I also don't know how many of you have a Mother you love, but my three daughters did. I don't know how many of you have buried your spouse, but I did. I don't know how many of you have buried your Mother, but my three daughters (ages 8, 12, and 13 at the time) did. My daughters wake up each morning with no Mother to hug them, come home from school each day with no Mother to greet them, will never enjoy making home baked cookies with their Mother again, have experienced their First Communion without their Mother, their eighth grade graduation without their Mother, their first Prom without their Mother, two Mother's Day's without their Mother, two Christmas' without their Mother, will never sing for her again, sometimes are awakened in the night by an imaginary phone ringing, and will never experience her loving touch.

Ladies and Gentlemen, I submit to you that no amount of money will ever replace my wife and my daughter's Mother. Ironically, created through the able assistance and strong lobby of the Doctors in our state, we have a system and law where Doctors and hospitals can do this to me and to my daughters and family, and effectively walk away financially unscathed due to financial caps on recovery. This is not a case of a Doctor's misdiagnosis, as we all understand medicine is not an exact science. This is purely and simply the case of a hospital staffed inadequately to serve the basic needs of their patients. I assure you, each Doctor who had my wife as a patient expected to be and was paid for services rendered. I assure you, Columbia St. Mary's Hospital expected to be and was paid for services rendered. And yet, they leave me with a corpse, no explanation, and financial limits on how I am able to serve as Father, Mother, and financial provider to three very spiritually wounded young souls, who cry out in the night for their Mother on countless nights, who cry out for one last chance to see their Mother and hug her, and cannot.

Page 3 June 5, 2001

In conclusion, I would like to read to you a poem my oldest daughter wrote for her freshman English class at Dominican High School in Whitefish Bay.

A Death in the Family By Britain Gebhardt Age 15

There will be angels around her, were my Father's choked words. I tried to decipher what was happening, why it was happening to me. She'd awoken me at 5:30 one horrible day about two years ago. "Honey, I love you. See you soon," she said. "What, bye Mom," was all I said. Why didn't I get up out of my bed. Why didn't I give her one last hug, or tell her I love her? She left with my Dad, And I fell back into a peaceful sleep. After the operation, things were perfect. A few nights later, I couldn't sleep. I went downstairs and watched TV. It was cold so I put a blanket around me. I started drifting to sleep, when the phone started ringing. It must have been 4:00 AM. I knew whoever it was, my Dad was going to kill. Instead, he just got out of bed, came downstairs, and drove away. He came back and told me, she wasn't going to make it. The Doctor could've saved her, if he'd known how to get fluids to her heart faster. I was angry inside. How hard was it to stick a needle into someone? All he did was nothing, but let my Mother die. Even to this day, I don't know why.

Thank you for listening. Good Day.