

**STATEMENT OF DAVID CURTIS GLEBE, Ph.D., J.D., IN REGARD TO
SPECIAL RADIOLOGICAL THERAPY ADMINISTERED TO ME BY
EXCEL DIAGNOSTICS & NUCLEAR ONCOLOGY CENTER, HOUSTON,
TEXAS ("Excel"), UNDER THE "RIGHT TO TRY ACT" OF THE STATE OF
TEXAS ("RTTA")**

My name is David Curtis Glebe, and I am presently a resident of Millsboro, Delaware. I am 64 years old. I am presently retired, having practiced law from 1986 until 2012, primarily in the public service as a prosecutor. I earned my Juris Doctor degree at the University of Pennsylvania Law School, and prior to that, I earned my Ph.D. in analytic philosophy at The Ohio State University.

In the summer of 2013, while living in Arizona, I was unexpectedly diagnosed with pancreatic neuroendocrine cancer ("PNET") by a specialist at the Mayo Clinic in Scottsdale, Dr. Thorvardur Halfdanarson. Because this form of pancreatic cancer is extremely rare, treatment options are limited. Dr. Halfdanarson and I discussed oral chemotherapy, using a new combination of drugs that had shown some progress with PNET patients, and we also discussed peptide receptor radionuclide therapy ("PRRT"), another promising treatment -- although it was available primarily outside of the United States. (Surgery was not considered an option for me, because of the location and large number of my PNET tumors.)

Dr. Halfdanarson decided that I should try the oral chemotherapy treatment first, which is commonly known as "CAPTEM," and that I might try PRRT sometime "down the road," if necessary. I began the CAPTEM treatment in the fall of 2013, and continued until the fall of 2015, by which time I had moved to Delaware and was being treated by several specialists at the University of Pennsylvania in Philadelphia. During those two years, I had an excellent response to the treatment, with extensive tumor shrinkage. Although I discontinued CAPTEM in the fall of 2015, my scans continued to show "stable disease" for several months.

In the summer of 2016, however, my scans unexpectedly showed substantial progression of my PNET tumors. My specialists, along with the Tumor Board at Penn, strongly advised that I undergo PRRT, which was essentially the only remaining treatment option for my worsening PNET. I promptly contacted the University of Basel Hospital, in Basel, Switzerland, and Excel in Houston, for

evaluation of my suitability for PRRT treatments. Both the University of Basel and Excel found me to be a suitable candidate. Because at that time the University of Basel offered an initial PRRT treatment using a stronger isotope (yttrium-90) geared to larger tumors like mine, which was not available at Excel, I decided to undergo my first PRRT treatment in Basel, which took place in early November of 2016.

After my initial PRRT treatment in Switzerland, my doctors advised me to have either two or three additional PRRT treatments, using a weaker isotope (lutetium-177). Although I could have received these additional treatments in Basel, I chose instead to have them done at Excel. I had been very impressed with the professionalism and care with which my initial contacts were handled by Excel, and I talked to several other PNET patients from around the country who had received PRRT at Excel, and who were uniformly positive about that experience. In addition, all of my doctors (even including my Swiss doctors) agreed that continuing my subsequent PRRT treatments at Excel, rather than in Basel, would be professionally acceptable, and that the quality of treatment I would receive at Excel would be comparable to the high quality of treatment I received in Basel.

Accordingly, I received my next PRRT treatment at Excel in January of 2017, my third treatment in March of 2017, and my fourth treatment in May of 2017. My ongoing scans have shown that these PRRT treatments have indeed been effective, viz., my PNET tumors are once again shrinking and there are no new tumors being seen.

These results mean that the PRRT treatments I have been receiving, primarily at Excel, are allowing me to continue to live. Without these PRRT treatments, given the "out of control" nature of my PNET cancer that was discovered in the summer of 2016, I would likely have already died of liver failure.

When I first contacted Excel in the summer of 2016, I was told that they were able to offer PRRT under a special Texas statute, the RTTA. This statutory authorization was necessary because PRRT, at that time and at present, had not been approved by the Food and Drug Administration ("FDA").

The underlying theory of the RTTA is simple and straightforward. Namely, in cases where a patient (like me) suffers from an otherwise incurable and terminal illness, and

where the approved treatments for that disease have already failed, that patient has a legally-recognized "right to try" promising treatments and therapies that have not yet been officially sanctioned by the FDA or other government agency.

This theory makes sense, on several grounds. In the first place, it is commonly held that the fundamental liberties of individual citizens living in a free society should be legally acknowledged and protected to the greatest extent possible, consistent with the liberties of others and the corresponding lack of harm to society at large. Obviously, the first and foremost such liberty is the individual's right to life itself. By allowing patients like me access to non-approved treatment therapies like PRRT -- which notably has been used with great success outside the United States for over twenty years -- the RTTA directly promotes these important social and political values. Correlatively, and as my own case demonstrates, patients who are denied access to effective but as-yet-unapproved treatments may in many cases die as a result, without having exhausted every possible alternative, which is surely inconsistent with maximizing the fundamental individual right to life.

In the second place, it is well-known that certain medical treatments have not been officially approved because they have not been demonstrated to be effective, except perhaps in rare cases, often based upon mere anecdotal evidence. Under such conditions, the fact that government approval has not been granted generally protects the public from "quack" therapies, designed primarily to exploit suffering patients who may be desperate for any possible source of help. Given such circumstances, the RTTA provides that patients must receive all relevant information with regard to their disease and proposed treatment, and that they only agree to receive non-approved therapies after giving their informed consent thereto, which may be withdrawn at any time. Such legal safeguards advance the important notion that a patient's "right to try" non-approved treatments must nevertheless be contingent upon the patient's knowing willingness to take personal responsibility for such choices.

Finally, the RTTA, and similar laws, recognize the fundamental ethical and philosophical values of human autonomy and dignity. In a free society, each adult should have the right to make the basic choices over the ways in which his or her life is to be lived, necessarily including the choice to undergo or to decline medical treatment. Such choices must be acknowledged and respected, at least in a *prima facie* sense, under the law. While many people, especially non-adults, are not fully capable of making such choices, and must therefore be subjected to the paternalistic protections of the community or government authority, those adults who are capable

of exercising autonomy over their own lives must not be unnecessarily restricted in the informed choices they make. Even if, in some cases, those individual choices turn out to be wrong, the underlying value of dignified, autonomous choice should be protected, as it is under laws like the RTTA.

The foregoing summarizes my present thoughts in regard to the RTTA, specifically in terms of its utilization by Excel to provide me with highly-needed PRRT treatments, which as I have pointed out above, have saved my life. I would be happy to answer any questions by the recipients of this statement, or to otherwise supplement my thoughts with greater detail. I sincerely appreciate the opportunity to make my voice known in support of the RTTA, and similar liberty-affirming and life-preserving laws.

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May 19, 2017