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An Oregon native is honored for her work to help others in pain

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Most people would not use the word “gift” to describe a diagnosis of not one but two chronic, debilitating diseases.

Laura Cooper is not most people.

The Eugene lawyer has embraced as opportunities her multiple sclerosis and a condition that causes painful spinal tumors. With her living expenses now covered by disability payments and an annuity from her days as a private finance attorney, she is free to practice an area of law she is passionate about: advocating for the rights of patients in pain.

Cooper cares so deeply about the issue that, last year alone, she donated more than 1,200 hours in legal services to the cause, earning her a top pro bono award from the Oregon State Bar.

Often working literally from her sickbed, she has helped prepare a class action lawsuit now before the U.S. Ninth Circuit Court of Appeals. Filed on behalf of Spokane physician Dr. Merle Janes and 27 Eastern Washington pain patients, the case challenges that state’s “Opioid Dosing Guidelines.” The suit alleges that Washington’s efforts to enforce the guidelines have prevented Janes from providing — and patients from receiving — adequate pain treatment.

The premise of the suit: Patients needing medical pain management with opioid drugs must be accommodated under the Americans with Disabilities Act. Opioids are a class of opium-based and synthetic drugs prescribed by a physician for medical purposes.

“It’s been a godsend,” Cooper said of her forced early retirement from paid legal practice. “My disability allows me to do the kind of work everybody would do if they could. I can work on things that matter in my heart.”

As pro bono (unpaid) counsel to the national Pain Relief Network, she has worked mostly over the Internet, consulting with other attorneys nationwide to research, draft and file motions in the case. Not only is she working to correct what she considers a grave injustice, but in a cutting-edge area of the law. By tackling the issue of pain patients’ rights, “I’m able to deal with a lot of meaty issues,” she said.

The Oregon State Bar's New Lawyers Division recently gave her its Pro Bono Challenge Award for her work on *Janes vs. Washington*. The award spotlights "the highest level of pro bono service," with Cooper honored in the sole practitioner category.

Oregon State Bar President Gerry Gaydos, also a Eugene lawyer, put Cooper's 1,200 hours in context.

"Last year, we had 56,000 pro bono hours reported by 1,800 Oregon lawyers," he said — an average of about 32 hours per reporting attorney.

"You look at Laura's service compared to that, and it is remarkable," he said. "She's encouraged a lot of people with pain to believe in the future, both by her personal modeling and by her legal work."

Oregon native returns home

Cooper, 53, grew up in Reedsport. She earned an undergraduate general science degree from the University of Oregon before being diagnosed with multiple sclerosis at age 23. She experienced a rapid onset of the disease, which attacks the central nervous system.

"Within a year I was involuntarily placed in a nursing home," she said.

Determined not to stay there, she decided a law degree would be her best ticket to regaining financial and other control over her life. She graduated from the University of Washington Law School in 1986, clerked in New Orleans for the Fifth Circuit U.S. Court of Appeals, then went to work at a San Francisco firm. While there, she served as outside counsel to the Federal Savings and Loan Insurance Corp. during the scandals rocking that industry. That work led to a Washington, D.C., job as counsel to the chairman of the Interstate Commerce Commission.

Then, in 1992, she was diagnosed with intradural extramedullary spinal cysts, a rare, progressive condition that causes weakness, pain and numbness.

"Technically, it's a terminal condition," she quipped during a recent interview. "But I've been 'terminal' for years. Shhhh!"

No longer able to handle the pressure, stress and long hours of her profession, she decided to return to Oregon and create a living space where she could still use her legal skills on behalf of pain patients and doctors who fear prosecution for adequately treating them. Cooper remodeled a ranch house off Oakway Road, removing walls and adding skylights and space to create a light-filled, wheelchair-friendly room where she can move easily between her hospital-style bed and a nearby desk.

"I can literally do all this work from my sickbed, which is kind of cool," she said. "It's a testament to the fact that people don't have to stop doing what they do when they become disabled. You just have to find a different way to do it."

Oregon a leader in pain treatment

Cooper said she's also happy to be back in her home state because it is a leader in considering the distinctive needs of pain patients in its drug law enforcement practices.

Oregon is the only state in the nation with a Pain Management Commission to represent the concerns of pain patients to the governor and the Legislature, to require seven hours of pain management training for all medical professionals, and to support research and policy analysis in the field. Oregon also is the only state with a full-time pain management coordinator appointed by and advising the governor.

Even so, there are still “whole areas of Oregon where it’s impossible for patients to get adequate pain care,” said Eugene nurse Jennifer Wagner, who holds the pain management coordinator position. “And one of the top three reasons is physician concerns about regulatory scrutiny for opioid prescriptions.”

Wagner declined to comment on the specifics of the Janes case, but said national pain management groups have expressed concern about Washington state’s guidelines. And she affirmed what Cooper describes as a bottom line in the case.

“People in pain have a right to timely, appropriate and effective pain care,” she said, noting that the American Pain Foundation recently reported that chronic pain afflicts an estimated 72.6 million U.S. residents.

Cooper attributes much of Oregon’s pain treatment progressiveness to passage of its Death with Dignity Act in 1994.

“That forced some soul-searching, when people realized that some are going to commit suicide because they can’t get adequate pain relief,” she said.

And the state went all the way to the U.S. Supreme Court to successfully fight a 2001 policy announced by then-U.S. Attorney General John Ashcroft warning physicians they would be violating federal law if they prescribed narcotics for terminally ill patients seeking to end their lives.

Cooper said she cites as precedent in *Janes vs. Washington* a section from Supreme Court Justice Anthony Kennedy’s majority opinion in that federal case.

“In layman’s language, he said, ‘Your authority is limited to prosecuting drug-dealing as conventionally understood. You are not to be prosecuting based on medical practice,’ ” Cooper said.

Personal history prompts legal work

Cooper said her own personal history with pain treatment prompted her fierce interest in government treatment of pain doctors and patients.

The galvanizing event for her was the prosecution, conviction and imprisonment of Dr. William Hurwitz, a Virginia pain specialist whom Cooper credits with saving her life. Hurwitz was convicted of drug trafficking after some of his patients were caught selling pain medication he’d prescribed to them.

He was sentenced in 2007 to nearly five years in prison, even though the judge said most of Hurwitz’s “high-dosage opioid” prescriptions for pain patients were legitimate and supported by “an increasing body of respectable medical literature and expertise.”

Cooper credits Hurwitz with diagnosing scarring in her trachea caused by repeated insertion

of breathing tubes during flare-ups of her MS. Laser treatments of the scar tissue eased her pain and breathing difficulties, she said.

“And he came up with an MS treatment that stopped me from being hospitalized all the time,” she said.

In Cooper’s eyes, doctors such as Hurwitz and Janes “are being persecuted for ‘over-prescribing’ pain medication even if it’s standard-of-care treatment. And people in chronic pain who need those medications can’t get them because of doctors’ fears of regulatory authority.”

Pain patients pay an excruciating price for what Cooper considers fear- and ignorance-driven government policies restricting the use of opioids for legitimate medical purposes.

Too many government officials “view addiction as not a public health issue, but a legal and criminal issue,” she said. “Doctors are pressured to be a cog in the war on drugs, even though science demonstrates that when people have actual pain, they can take these drugs around the clock and can’t get high.”

Aggressive prosecution of pain management specialists may prevent some people from feigning intractable pain to obtain drugs for illicit purposes, she acknowledged. But she contends the approach has increased public health problems — and costs — by driving hundreds of thousands of actual pain patients to rely on less-effective alternatives with lethal side effects.

“The Drug Enforcement Administration only sees deaths from (controlled substances),” she said. “But no one is comparing those deaths with Food and Drug Administration data showing that more people died from side effects of over-the-counter pain relievers.”

Pain patients are dying of gastrointestinal bleeding from ibuprofen and end-stage liver disease from acetaminophen, she said.

One aim of Janes vs. Washington, she said, is to “bring together two arms of federal government at war with each other.”

As a lawyer, Cooper said she is thrilled to be tackling the issue in civil court as a civil rights matter, saying a favorable Ninth Circuit decision would be a gift to hundreds of thousands of patients in pain.

“Instead of constantly defending individual (doctors) in criminal court, this lets us get at the policies,” she said. “That’s the heart of the issue.”

“My disability allows me to do the kind of work everybody would do if they could. I can work on things that matter in my heart.”

**LAURA COOPER
ATTORNEY**

WEB LINKS

For information and research on treatment of chronic pain: www.oregon.gov/DHS/pain,

www.painreliefnetwork.org or www.painfoundation.org

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