

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

DANIEL EZERO, Individually and as Administrator of the :	:	DOCKET NO. 10-01023
Estate of Abby Ezero, M.D., Deceased, :	:	CIVIL ACTION – LAW
Plaintiff :	:	
	:	
vs. :	:	JURY TRIAL DEMANDED
	:	
THE WILLIAMSPORT HOSPITAL AND MEDICAL :	:	ORDER RE: MOTION <i>IN</i>
CENTER; SUSQUEHANNA HEALTH SYSTEM; :	:	<i>LIMINE</i> – DR. D’HUE
SUSQUEHANNA HEALTH; JOEL OLIVER D’HUE, :	:	BOARD CERTIFICATION
M.D.; SUSQUEHANNA HEALTH MEDICAL GROUP; :	:	
HARRY DEAN MINTZER, D.O., and ANESTHESIA :	:	
ASSOCIATES OF WILLIAMSPORT, :	:	
Defendants :	:	

OPINION AND ORDER

AND NOW, this ___ day of July, 2012, following oral argument on the Motion *in Limine* of Defendants The Williamsport Hospital and Medical Center, The Williamsport Hospital Foundation, Susquehanna Health System, Susquehanna Health, Susquehanna Health Systems, Inc., Susquehanna Health Foundation, Joel Oliver D’Hue, M.D., and Susquehanna Health Medical Group Regarding Unsuccessful Attempts at Board Certification, it is hereby ORDERED and DIRECTED that Defendants’ motion is GRANTED. This Court finds that the number of times that it took Dr. D’Hue to pass the board certification examination in the early 1980s, specifically from 1981 to 1984, is irrelevant and inadmissible in regards to Plaintiff’s negligence and corporate negligence claims. Pa. R.E. 401-02. *See Hawkey v. Peirsel*, 869 A.2d 983 (Pa. Super. Ct. 2005) (Appellant provided no binding authority or relevant statement of law establishing that board certification is probative of the satisfaction of a physician’s standard of care); *Becker v. Penrod*, No. 2332, 15 Phila. 347 (Philadelphia County Mar. 3, 1987), *aff’d*, 536 A.2d 819 (Pa. Super. Ct. 1987) (Defendant doctor’s inability to become board-certified is not relevant to the physician’s standard of care); *Batman v. Sedlovsky*, 59 Pa. D. & C. 4th 449

(Northumberland County June 25, 2002) (Defendant hospital did not per se violate any duty to its patients by allowing staff privileges to non-board certified physicians).

Additionally, this Court finds that any relevant, probative value that this evidence would bring is outweighed by the prejudice that this evidence would bring to the above-mentioned Defendants. Pa. R.E. 403. Dr. D'Hue passed the board examination in 1984 and has been a practicing physician for approximately twenty-eight years. This Court finds that Dr. D'Hue's two failed attempts at passing the board certification examination from 1981-1984 is more prejudicial than probative in the case at bar. However, the Court stresses that the two failed attempts are not even relevant to the negligence and corporate negligence claims in the above-captioned matter.

BY THE COURT,

Richard A. Gray, J.

RAG/abn

cc: Thomas Kline, Esquire/Amy Guth, Esquire
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C. Edward Mitchell, Esquire/Jessica Harlow, Esquire