

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

LINDA HEIM,	:	NO. 15 – 00,371
Plaintiff	:	
vs.	:	
	:	CIVIL ACTION
HOPE ENTERPRISES FOUNDATION INCORPORATE	:	
and/or HOPE ENTERPRISE, INC. and/or HOPE	:	
CORPORATION and/or RYAN BENIS,	:	
Defendants	:	Motion in Limine

**OPINION AND ORDER**

Before the Court is a motion in limine filed by the Hope Defendants on April 16, 2018, in which Defendants seek to exclude the testimony of Plaintiff’s expert, Ilene Warner-Maron, Ph.D. Argument on the motion was heard May 17, 2018.

In her Complaint, Plaintiff seeks to recover damages for the death of her son, Nathan McHenry, who died as a result of choking on food while a resident of a group home owned and operated by the Hope Defendants, bringing claims of negligence and corporate negligence. Plaintiff has offered the testimony of Ilene Warner-Maron, Ph.D., who opines that Hope Enterprises deviated from accepted standards of care by understaffing the home, allowing Nathan McHenry access to food while unsupervised against his Individual Support Plan, not taking proper responsive actions upon discovering Mr. McHenry was choking, failing to train employees, failing to hire only qualified employees, failing to have adequate policies and procedures in place, and failing to follow those policies and procedures it did have. In the instant motion in limine, the Hope Defendants assert these opinions should be excluded as beyond her scope of expertise,

irrelevant, prejudicial and hearsay. Because the Court finds that Dr. Warner-Maroon is not qualified to give these opinions, her testimony will be excluded in general, without addressing the relevancy and/or prejudicial and/or hearsay nature of her statements.

A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

(a) the expert's scientific, technical, or other specialized knowledge is beyond that possessed by the average layperson;

(b) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; and

(c) the expert's methodology is generally accepted in the relevant field.

Pa.R.E. 702. In deciding whether an expert may be qualified to give particular opinions, the Court must look at not only the expert's education and training, but also any relevant experience. *See George v. Ellis*, 820 A.2d 815 (Pa. Super. 2003)( An expert witness may be qualified to offer an opinion on a matter if he has any reasonable pretension to specialized knowledge on the subject.).

In the instant case, examination of Dr. Warner-Maroon's *curriculum vitae*<sup>1</sup> reveals that she has a Bachelor's degree in Sociology, a Master's degree in Social Gerontology, a Master's degree in Law and Social Policy, a post-Master's degree in Health Administration, and a Ph.D. in Health Policy. She holds licenses as a registered nurse and a nursing home administrator. She currently acts as a consultant for "Alden Geriatric Consultants, Inc.". While she has an extensive resume, it appears her background and experience is almost entirely in the field of

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<sup>1</sup> See Exhibit "A", attached to the motion in limine.

geriatrics and the contact she has had with group homes like the one in the instant case, for people with physical and developmental disabilities, has also been in the field of geriatrics.

When questioned about her experience with group homes,<sup>2</sup> Dr. Warner-Maron offered that she acts as a court-appointed guardian for a person “who lives in the community in a home with one other person”, and that she was hired as a consultant twice, with respect to people in a group home who were having “aging issues” and with respect to people in a “developmental disabilities group daycare center” who were “having issues with dementia”. She admitted that her work with “community residential programs for the mentally disabled” has been “a small minority of the work that [she does] as a college professor and as a nurse and as an administrator” and it appears this work did not involve the management or supervision of a group home or the preparation of Individual Support Plans, but only the aging issues of its residents. The Court therefore believes Dr. Warner-Maron’s education and experience, while extensive, nevertheless falls short of that required to offer expert opinions about the standard of care required by those providing group home care to physically and developmentally disabled individuals such as Nathan McHenry.

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<sup>2</sup> Plaintiff supplemented her opposition to this motion with a copy of the trial testimony provided by Dr. Warner-Maron in another case against the Hope Defendants, *Brittain v. Hope Enterprises Foundation Incorporated*, tried in Luzerne County in 2012.

**ORDER**

AND NOW, this      day of May 2018, for the foregoing reasons, the Hope Defendants' Motion in Limine to preclude the testimony of Dr. Ilene Warner-Maron is hereby GRANTED. Dr. Warner-Maron may not offer at trial any opinions regarding (1) the standard of care required of Defendants or (2) any alleged breach of that standard of care.

BY THE COURT,

Eric R. Linhardt, Judge

cc: Douglas Yazinski, Esq., The Pisanchyn Law Firm  
524 Spruce Street  
Scranton, PA 18503  
Robert MacMahon, Esq., Weber Gallagher  
2000 Market Street, 13th floor  
Philadelphia, PA 19103  
Kevin C. Hayes, Esq., Scanlon, Howley & Doherty, P.C.  
217 Wyoming Avenue  
Scranton, PA 18503  
Gary Weber, Esq. (Lycoming Reporter)