

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,  
PENNSYLVANIA

ALBERT BURKHART, a Minor,	:	No. 01-00310
By NEDRA BURKHART, Guardian	:	
Plaintiff	:	
	:	
vs.	:	Civil Action - Law
	:	
PHILLIP BYLER, M.D.; CHARLES	:	
LAMADE, M.D. LYCOMING	:	
OBSTETRICS & GYNECOLOGY;	:	
ASSOCIATES, P.C.; CORNERSTONE:	:	
FAMILY HEALTH, P.C.; THE	:	Plaintiffs' Frye Motion
WILIAMSPORT HOSPITAL and	:	to Preclude Testimony
SUSQUEHANNA HEALTH SYSTEM,	:	RE: Mother's Conduct
Defendants	:	During Delivery

ORDER

AND NOW, this 12th day of March 2003, the Court DENIES Plaintiffs' Frye Motion to Preclude Testimony regarding mother's conduct during delivery. The defense does not intend to assert that the mother's conduct caused the child's injury. Therefore, this really isn't a Frye issue. Instead, the defense argues the mother's conduct is relevant to the situation/circumstances that the physicians were presented with when attempting to delivery the minor-plaintiff and to the credibility of mother and other individuals present during the delivery. The Court agrees. The Court believes the Plaintiffs' concerns of possible prejudice can be alleviated through a cautionary instruction to the jury that this testimony is not to be considered as

placing blame on the mother for the child's injury.

By The Court,

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Kenneth D. Brown, Judge

cc: John Kusturiss, Esquire  
David Bahl, Esquire  
Darryl Wishard, Esquire  
Mark Perry, Esquire  
Work File