

## **Selected Confidentiality-Related Cases—District Court Judges Conference**

### **G.S. 8-53.**

*Flora v. Hamilton*, 81 F.R.D 576 (M.D.N.C 1978). Judges should not hesitate where it appears to them that disclosure is necessary in order that the truth be known and justice done.

*State v. Efind*, 309 N.C. 802, 309 S.E.2d 228 (1983). The statute affords the trial judge wide discretion in determining what is necessary for the proper administration of justice.

*In re Albemarle Mental Health Center*, 42 N.C.App. 292, 256 S.E.2d 818 (1979). Statutory privilege accorded physician-patient and psychologist-client communications allow trial court to compel disclosure prior to trial and prior to filing of criminal charges where such action is necessary to exercise of court's implied or inherent powers to provide for proper administration of justice.

See also, *Spangler v. Olchowski*, below.

### **G.S. 122C**

*In the Matter of J.B.*, 172 N.C.App. 1, 616 S.E.2d 264 (2005). Mother's mental health records were admissible in termination of parental rights action, in light of statute [G.S. 122C-54(a)] requiring a medical facility to disclose confidential information if a court of competent jurisdiction issues an order compelling disclosure.

*In re J.S.L.*, 177 N.C.App. 151, 628 S.E.2d 387 (2006). Mother's mental health records were admissible in termination of parental rights action; statute [G.S. 122C-54(a)] required a medical facility to disclose confidential information if a court of competent jurisdiction issues an order compelling disclosure.

See also, *Spangler v. Olchowski*, below.

### **42 C.F.R. Part 2**

*In the Matter of E.P., M.P.*, 183 N.C.App. 301, 645 S.E.2d 772 (2007). Substance abuse records of parents were not relevant during the adjudication stage of neglect and dependency proceeding; county department of social services had sufficient evidence of mother and father's substance abuse without including their substance abuse records, and nothing indicated that the records provided additional evidence regarding the neglect and dependency of the children.

*Spangler v. Olchowski*, 187 N.C.App. 684, 654 S.E.2d 507 (2007). Medical malpractice action for physical pain and emotional distress. Issue on appeal--whether trial court erred in ordering disclosure of substance abuse treatment information. Appellate court applied GS 122C, GS 8-53, and 42 CFR 2 confidentiality laws. Court relied on its analysis of GS 8-53 to conclude that plaintiff had waived GS 122C confidentiality.