



2008-2009
Board of Directors

PRESIDENT
Paul T. Czepliga, CELA
Newington

PAST PRESIDENT
Horeen A. Dillman, CELA
Weathersfield

PRESIDENT ELECT
Amy E. Todisco, Esq.
Fairfield

VICE PRESIDENT
Joseph A. Cipparone, Esq.
New London

TREASURER
Linnea J. Levine, CELA
Westport

SECRETARY
Elizabeth N. Byrne, Esq.
Middletown

DIRECTOR
Franklin Drazen, Esq.
Milford

DIRECTOR
Daniel O. Tully, Esq.
Bristol

DIRECTOR
Bill O'Connor, Esq.
Avon

March 9, 2009.

To: Senator Andrew McDonald, Representative Michael Lawlor and Honorable Members of the Judiciary Committee

From: Amy E. Todisco, President-Elect, Connecticut Chapter of the National Academy of Elder Law Attorneys, Inc.

Re: SB 576, AAC The Connecticut uniform Protective Proceedings Jurisdiction Act

Dear Senator McDonald and Representative Lawlor:

I am writing to you on behalf of the Connecticut Chapter of the National Academy of Elder Law Attorneys, Inc., a chapter of the National Academy of Elder Law Attorneys, Inc. ("NAELA"). NAELA is a non-profit association whose mission is to provide legal advocacy, information and education to attorneys, bar associations and others who deal with the many specialized issues involving the elderly and individuals with special needs. The Connecticut chapter of NAELA presents this written testimony in support of SB 576, AAC The Connecticut uniform Protective Proceedings Jurisdiction Act (also referred to as "UAGPPJA"). The enactment of UAGPPJA will assist the Connecticut chapter of NAELA in fulfilling its important mission.

In 2007, NAELA's Board of Directors voted unanimously to endorse the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act. Today, the Connecticut Chapter of NAELA joins in endorsing the passage of UAGPPJA.

As an elder law attorney for over twenty years, I have personally been involved in conservatorship matters involving interstate jurisdictional issues, including which state had jurisdiction over an individual and the failure of other states to recognize orders of a Connecticut probate court. When enacted, the UAGPPJA will close the gap which exists in conservatorship proceedings by 1) resolving disputes over which state is the proper forum for the initial guardianship (UAGPPJA uses the word "guardianship" so as to be consistent with the terminology used by the majority of other states; however, Section 2(3) of UAGPPJA specifically states that the word "guardian" shall mean "conservator of the person" in Connecticut), 2) facilitating transfers of guardianships from state to

Senator Andrew McDonald
Representative Michael Lawlor
Members of the Judiciary Committee
March 9, 2009.
Page 2

state, and 3) providing for the registration of orders of Courts in other states so that full faith and credit of another Court's order is recognized.

Questions of which state has jurisdiction to appoint a guardian frequently arise because the individual has contacts with more than one state. In nearly all states, a guardian may be appointed by a court in a state in which the individual is domiciled or is physically present, or has property. Contested cases in which courts in more than one state have jurisdiction are becoming more common. Such cases arise because the adult is physically located in a state other than the adult's domicile, or because of uncertainty as to the adult's domicile, particularly if the adult owns a vacation home in another state. The UAGPPJA creates a process for determining which state will have jurisdiction to appoint a guardian if there is a conflict. It does this by designating that the individual's "home state" has primary jurisdiction, followed in priority by a state in which the individual has "significant connection." An individual's "home state" is defined as the state in which the individual was physically present for at least six consecutive months immediately before the commencement of the guardianship or protective proceeding. The home state has primary jurisdiction to appoint a guardian or conservator and this priority continues up to six months following a move to another state. A significant jurisdiction state has jurisdiction if an individual has not had a home state within the past six months or if the home state declines jurisdiction. If the home state and all significant connection states decline jurisdiction a court of another state can take jurisdiction. Once a court has jurisdiction over the guardianship proceeding, the jurisdiction continues until the proceeding is terminated or transferred.

Few states currently have procedures for transferring guardianships. As a result, it is often necessary to commence a new proceeding for the appointment of a guardian in the state where the individual is sought to be moved. Commencing new guardianship proceedings are expensive and time consuming. UAGPPJA addresses this issue and specifies a procedure for the transference and acceptance of a guardianship to and from another state.

Although the Full Faith and Credit Clause of the U.S. Constitution requires that court orders in one state be honored in another state, guardianship proceedings are an exception to the full faith and credit doctrine. UAGPPJA facilitates the enforcement of guardianship and protective orders in other states through a registration process. Upon registration, the guardian may exercise all powers authorized in the order of appointment from the first state in the registering state (except those prohibited under the laws of the registering state). The registration procedure reduces the likelihood that a state will refuse a guardian's authority and require the commencement of a new guardianship proceeding.

Senator Andrew McDonald
Representative Michael Lawlor
Members of the Judiciary Committee
March 9, 2009.
Page 3

In conclusion, because the U.S. has over 50 guardianship systems, problems of determining jurisdiction are frequent. Questions of which state has jurisdiction to appoint a guardian/conservator arise especially because the individual has contacts with more than one state. UAGPPJA provides for an effective mechanism for resolving multi-jurisdictional disputes, transferring guardianships, and giving full faith and credit to another state's guardianship order. UAGPPJA is expected to be widely enacted this year throughout our nation, and we are hopeful that Connecticut is among one of those states. On behalf of the Connecticut chapter of NAELA, we strongly urge the Judiciary Committee to act favorably on UAGPPJA.

Sincerely,

Connecticut Chapter, National Academy of Elder Law Attorneys, Inc.

Amy E. Todisco
President-Elect