

To: Drafting Committee, UAGPPJA

From: David English

Re: Current Draft

Date: 4/10/2007

Attached for your review and to bring to the meeting is the draft for the meeting in Salt Lake City. Also included in the email is a short article by me summarizing the Act's provisions and a copy of the latest Style Committee suggestions.

### Outreach

Since our last meeting, Catherine Seal, Sally Hurme, and Terry Hammond and I have been on the road selling the Act. Among the groups to whom we have spoken are ACTEC, the Joint Editorial Board for Uniform Trusts and Estates Acts, and the National College of Probate Judges. Later this month we will be speaking to the Missouri Association of Public Administrators and the ABA Real Property Probate & Trust Law Section. In May, we will be speaking to NAELA. The reaction overall has been positive. Particularly welcoming is the enthusiastic support of NCPJ, which passed a resolution endorsing the Act.

### Style Committee Issues

The latest Style Committee draft makes numerous helpful suggestions which have been incorporated into the Act. But the Style Committee also makes two major recommendations which I have not incorporated into the draft but which require drafting committee deliberation:

1. The term "protected person" should be changed to "protected individual," or, in the alternative, the definition of "person" should be dropped;
2. The Act is too long for multiple articles but be scrunched into one article.

I have sought input on these issues from JEB, NCPJ and several of our Advisors and Observers. All are greatly concerned about these recommendations and believe they are a big mistake. The term "protected person" is the term used for an individual under conservatorship in a majority of states. It is also the term used in the Uniform Guardianship and Protective Proceedings Act (UGPPA), of which this Act will eventually form a part. Using "protected individual" instead of "protected person" will sound odd to the groups who will help us with enactment. It will also make incorporation into UGPPA difficult. On the other hand, I doubt many of us would be too concerned if we were to drop the definition of "person," although the term is used in a number of places in the Act.

Reducing the Act into one article would seriously harm the final product. The Act consists of 3 distinct topics, initial jurisdiction, transfer, and recognition. Having each topic addressed in a

separate article greatly aids in understanding. It is also how the Act has been presented to the groups who will aid us in enactment.

### Other Issues

Here are some other items we should consider in Salt Lake:

#### *Section 103. Definitions*

Sally Hurme wishes to revisit our definition of “emergency guardian,” concluding that some state emergency/temporary statutes are too loose.

See Section 205, where I list factors for determining “significant connection.” Should we try to incorporate 205 into this definition? Is the definition consistent with Section 205?

#### *Section 107. Taking Testimony in Another State*

This is the last civil procedure provision left in the Act. Is this important enough to keep, particularly given that NCCUSL is working on a uniform Act on this topic?

#### *Section 201. Initial Jurisdiction*

Note the cross-reference at the beginning. Some readers were missing the exceptions for emergency appointments and out-of-state property.

Speaking of out-of-state property, should we tighten this reference? It is not necessarily limited to real property and tangible personal property. It could also be used to set up an out-of-state conservatorship for a bank account.

#### *Section 205. Determining Significant Connection*

What we mean by “significant connection” is asked so frequently that I concluded we need a list of factors. This list is a first stab.

#### *Section 206. Jurisdiction Declined by Reason of Conduct*

As part of our roadshow, we have asked the question whether we should try to define “unjustifiable” conduct. The answer is no.

#### *Article 4. Registration and Recognition*

Perhaps give this article a closer read than the others. I am not certain I captured all of the comments from our last meeting.