

CASE STUDIES IN ADULT GUARDIANSHIP JURISDICTION

To explain why the jurisdictional issues related to adult guardianship are critical for individuals with Alzheimer's and other dementias, consider the following common scenarios:

Scenario #1: Transferred Caregiving Arrangements

Jane cares for her mother, who has dementia, in their home in Texas. A Texas court has appointed Jane as her mother's legal guardian. Unfortunately, Jane's husband loses his job, and Jane and her family move to Louisiana. Neither Texas nor Louisiana has enacted UAGPPJA. Upon arriving in Louisiana, Jane attempts to transfer her Texas guardianship order to Louisiana, but she is told by the court that she must re-file for guardianship rights under Louisiana law because Louisiana does not recognize adult guardianship orders issued in other states. This duplication of effort creates both a financial and emotional burden on Jane and her family.

Scenario #2: Snowbirds

Alice and Bob are an elderly couple who are residents of New York, but they spend their winters at a rental apartment in Florida. Alice has Alzheimer's disease, and Bob is her primary caregiver. In January, Bob passes away. When Steve, the couple's son, arrives in Florida, he realizes that his mother is incapable of making her own decisions and needs to return with him to his home in Kansas. Florida, New York, and Kansas have not adopted UAGPPJA. Steve decides to institute a guardianship proceeding in Florida. The Florida court claims it does not have jurisdiction because neither Alice nor Steve has their official residence in Florida. Steve next tries to file for guardianship in Kansas, but the Kansas court tells Steve that it does not have jurisdiction because Alice has never lived in Kansas and that a New York court must make the guardianship ruling. If these three states had adopted UAGPPJA, the Florida court initially could have communicated with the New York and Kansas courts to determine which state had jurisdiction.

Scenario #3 – Interstate Health Markets

(Interstate Health Markets are local medical centers accessed by persons from multiple states.)

Jack, who lives in southern Wisconsin, has dementia and is brought to a hospital in Chicago because he is having chest pains. As it turns out, he is having a heart attack. While recuperating in the Chicago hospital, it becomes apparent to a hospital social worker that Jack's dementia has progressed, and he now needs a guardian. Unfortunately, Jack does not have any immediate family, and his extended family lives far away. The social worker attempts to initiate a guardianship proceeding in Wisconsin. However, she is told that because Jack does not intend to return to Wisconsin, she must file for guardianship in Illinois. The Illinois court then refuses guardianship because Jack does not have residency in Illinois. Even though Wisconsin and Illinois share a border, no official channel exists for the two state courts to communicate about adult guardianship because only Illinois has enacted UAGPPJA.

Scenario #4 – Better Caregiving with UAGPPJA

Sarah, an elderly woman living in Utah, falls and breaks her hip. She and her family decide it is best that she recover from her injuries at her daughter's home in Colorado. During Sarah's stay in Colorado, her daughter, Lisa, realizes that her mother's cognition is impaired, and she is no longer capable of making independent decisions. Lisa decides to petition for guardianship in Colorado. Thankfully, both Colorado and Utah have adopted UAGPPJA, and the Colorado court can easily communicate with the Utah court. Following the rules established in UAGPPJA, the Colorado court asks the Utah court if any petitions for guardianship for Sarah have been filed in Utah. The Utah court determines that no outstanding petitions exist and informs Colorado that it may take jurisdiction of the case. Thus, although Utah is Sarah's home state, Colorado may make the guardianship determination.