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### Issue Overview

The Alzheimer’s Association strongly supports the adoption of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (the UAGPPJA) by all 50 states, the District of Columbia and United States’ territories.

Due to the impact of dementia on a person’s ability to make decisions, individuals living with Alzheimer’s disease may need the assistance of a legal guardian. The process of appointing a guardian is handled by state courts. In the simplest situations, a judge decides that an individual lacks the mental capacity to make decisions. A guardian is then appointed with the legal authority to make personal and/or property decisions on behalf of the individual.

For individuals living with Alzheimer’s disease, complications with establishing guardianship commonly arise when more than one state is involved such as in situations concerning snowbirds, transferred or long-distance caregiving, interstate health markets, wandering, and even the occasional incidence of elderly kidnapping.

When multiple states are involved, the question of proper jurisdiction can arise. Jurisdiction is a legal concept that determines which court has the authority to hear and decide a case, including the appointment of a guardian. The situation maybe complicated further because multiple states, each with their own systems, may have a financial interest in the case. Consequently, it may be unclear which state court has jurisdiction to decide the guardianship issue.

In an ideal future, enactment of the UAGPPJA by all states will allow the question of jurisdiction in adult guardianship situations to be settled more easily and provide predictable outcomes in adult guardianship cases. Advocating for the adoption of a more uniform and efficient adult guardianship system will alleviate the uncertainty and complexity experienced by families caring for an individual with dementia, while helping them reach an appropriate resolution faster.
Proposed Legislation

In response to this common jurisdictional confusion, the Uniform Law Commission developed the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (the UAGPPJA). The legislation establishes a standardized set of rules for determining jurisdiction. It also establishes a framework that allows judges in different states to communicate with one another about these cases. This legislation does not make any substantive changes (i.e., whether guardianship is appropriate or who should be awarded guardianship) to established state adult guardianship laws.

To successfully apply the UAGPPJA in a case, all the states involved must have adopted the law. Thus, the more states that enact the UAGPPJA in identical format, the simpler the adult guardianship process will become.

In most cases, the process for enacting the UAGPPJA is the same as any other law. The state legislature must pass the legislation and the Governor must then sign it. In a few states, uniform laws also go through a separate review process before they can be considered by the legislature. As of June 2010, 19 states and the District of Columbia have enacted the UAGPPJA. Our goal at the Alzheimer’s Association is for every state to pass the UAGPPJA by 2014. (See State Map – Appendix B)

Existing Problems of Jurisdiction

To explain why the jurisdictional issues related to adult guardianship are critical for individuals with dementia, here are a few 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 Missouri. Neither Texas nor Missouri have enacted the UAGPPJA. Upon arriving in Missouri, Jane attempts to transfer her Texas guardianship decision to Missouri, but she is told by the court she must re-file for guardianship under Missouri law because Missouri does not recognize adult guardianship rights made in other states. This duplication of effort burdens families both financially and emotionally.

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 unexpectedly 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 Nebraska. Florida, New York and Nebraska have not adopted the UAGPPJA. Steve decides to institute a guardianship proceeding in Florida. The Florida court claims it does not have jurisdiction because neither Alice nor Steve have their official residence in Florida. Steve next tries to file for guardianship in Nebraska, but the Nebraska court tells Steve that it does not have jurisdiction because Alice has never lived in Nebraska, and a New York court must make the guardianship ruling. If these three states adopted the UAGPPJA, the Florida court initially could have communicated with the New York
court to determine which court had jurisdiction.

**Scenario #3: Interstate Health Markets (local medical centers accessed by persons from multiple states)**

Jack, a northern Indiana man with dementia, 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 at a distance. The social worker attempts to initiate a guardianship proceeding in Indiana. However, she is told that because Jack does not intend to return to Indiana, she must file for guardianship in Illinois. The Illinois court then refuses guardianship because Jack does not have residency in Illinois. Even though the Indiana court is located within miles of the Illinois state line, no official channel exists for the two state courts to communicate about adult guardianship because neither state has enacted the UAGPPJA.

The final example demonstrates how the process for resolving jurisdictional adult guardianship issues is simplified if the states involved have adopted the UAGPPJA:

**Scenario #4: Long-Distance Caregiving**

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 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 the UAGPPJA, and the Colorado court can easily communicate with the Utah court. Following the rules established in the 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 in the case. Thus, although Utah is Sarah’s home state, Colorado may make the guardianship determination.

**Connection between Adult Guardianship and Quality Care**

The situations described above demonstrate that adult guardianship issues frequently intersect with the needs of individuals living with Alzheimer’s disease and their families. As part of developing suggested state policy related to end-of-life practice recommendations, the Association convened a meeting of end-of-life experts. One of the key recommendations was that the Association should advocate for improved state policy on advanced directives and care planning to ease the complexity of end-of-life decisions. However, complicated adult guardianship issues often arise in situations where people failed to engage in comprehensive end-of-life planning.

Thus, as we work toward increasing awareness of the need for advanced planning, advocating for more workable adult guardianship systems is also important. The current systems impose barriers to addressing end-of-life issues, in part, due to the disorganized array of state adult guardianship laws and the lack of communication among states. Exposing the
financial and emotional burden faced by families trying to establish guardianship by 
advocating for the UAGPPJA may encourage states to dedicate increased resources to 
meaningful reviews of existing complex end-
of-life legal processes encountered by families.

**About the Allied Organizations**

We are working with several allied organizations on this campaign, primarily the 

The Uniform Law Commission researches, drafts, and then advocates for the enactment of 
uniform state laws. The Uniform Law Commission’s members (referred to as Commissioners) are attorneys appointed by 
their state governments to serve on the Uniform Law Commission. Many of the Commission’s are also state legislators, 
judges, and law professors. The Uniform Law Commission developed the UAGPPJA through its standard, extensive vetting process, 
which gathered the input of Commissioners nationwide.

Other organizations supporting the UAGPPJA include: the Conference of Chief Justices, the 
National College of Probate Judges, the National Guardianship Foundation, and the 
National Academy of Elder Law Attorneys. Additionally, the Council of State Governments Committee on Suggested State 
Legislation adopted the UAGPPJA as one of its model state laws.

**Alzheimer’s Association’s Role**

Within the Association, this project functions as a joint effort between the national public policy office and Chapters. Enacting this 
legislation is an important goal and would be a significant legislative victory that would directly affect the lives of many Alzheimer 
families. As such, we strongly encourage Chapters to add the adult guardianship issue to 
their upcoming public policy platforms.

The Association’s main roles in the campaign are to 
humanize this complicated issue for 
state legislators and add a strong consumer 
voice to the existing coalition of professionals 
calling for change. Identifying compelling adult guardianship stories such as the ones 
described above puts a face on the issue for 
state legislators.

Similar to other public policy initiatives, the 
Association will prepare written and oral 
testimony, meet with legislators and other 
interested parties, draft letters to the editors, 
and prepare other awareness materials.

Chapters should reach out to representatives of 
the Uniform Law Commission and the 
National Academy of Elder Law Attorneys in 
their respective states to work jointly to move 
the legislation forward.

**Next Steps**

Throughout the summer and fall, the 
Association and our national allies are working to 
engage state legislators, attorneys, judges, 
and other senior consumer organizations on 
the UAGPPJA.

1. **Identify states in which the UAGPPJA is likely to be introduced and won.**

Although the Association believes that 
every state should enact the UAGPPJA, the particular processes or political climate of some states offer a better opportunity than others. Working in collaboration with our national allies and Chapter staff, 
at this point 21 states are expected to see 
the legislation introduced in 2011. (See 
State Map – Appendix B)

2. **Educate Chapter Public Policy Staff, Public Policy Committee Members and Key Advocates about the issue.**

Unlike other issues for the Alzheimer’s 
Association, adult guardianship and the
legal policy processes involved may be unfamiliar territory to staff and volunteers. Even for families who have previously established guardianship, the policy issues the UAGPPJA can generate maybe complex or confusing.

While the Alzheimer’s Association’s Public Policy Division and the Uniform Law Commission can field detailed questions, a basic understanding of the UAGPPJA is important for all staff and lead advocates prior to engaging state policy makers.

Educational conference calls have been scheduled with Chapter staff and the Public Policy Division to begin this process. For those unable to attend, follow-up calls should be scheduled to ensure the Association is advocating one consistent message on this issue.

3. Identify families that have been involved in multi-state adult guardianship cases.

While policy arguments in support of the UAGPPJA are important, so is making the issue personal for elected officials. Often, discussions around legislation can feel abstract to state legislators. It is important that the Alzheimer’s Association presents a “face” for the issue. State legislators want to know that by supporting a bill they are making the lives of their constituents better.

While high-profile “granny snatching” cases offer a dramatic face to the problems experienced by families dealing with multi-jurisdictional adult guardianship cases, simple everyday stories of families caught up in a complex system are more compelling and easier to find.

Families may not realize their stories are exactly what will make a difference until they are asked. Therefore, it is important to emphasize that you are looking for all adult guardianship stories that involved more than one state. It is easier to weed out those that would not benefit from the UAGPPJA rather than have someone mistakenly not tell their story because it was not high profile.

To find stories, reach out to other senior organizations, professional guardianship associations, state judges deciding guardianship cases, social workers, and the Alzheimer’s Association’s consumer help line. (See Sample Request for Guardianship Stories – Appendix C)

4. Reach out to allied organizations for support.

As with any policy initiative, the UAGPPJA is easier to win when you have many organizations are voicing support. The UAGPPJA can bring together an unusual set of allies from senior organizations to legal representatives. Making contact with members of these organizations early is important in establishing working relationships prior to the legislative session and provides ample opportunity discuss and agree on a strategy.

In some states, failing to reach out early to partners in the legal community resulted in the legislation failing to pass. Early communication allows traditional policy vetting processes (known within the legal community) to occur and allows these processes to conclude prior to the start of the legislative session.

To receive the contact information for your state’s Uniform Law Commission Commissioner or other national organization representatives, contact the Public Policy Division.
5. Identify possible opposition.

Just as it is important to identify allied organizations, it is also critical to reach out to possible opponents. In some situations, their opposition may be based on false information about the UAGPJA and thus early communications can resolve that misunderstanding.

For example, in Florida, the Real Estate, Probate and Trust Law (REPTL) Section of the State Bar Association voiced opposition to the UAGPJA shortly before it was pre-filed in the legislature. When the Alzheimer’s Association engaged the group to understand their disagreement, it became clear that the opposition was to a different uniform law and not the UAGPJA. Clearing up this disagreement was an important lesson for the Association going forward in other states.

In other instances, organizations may have a philosophical opposition to the general issue. For example, some disability organizations may be unfriendly to the UAGPJA based on long-standing opposition to guardianship policies in general. If a policy maker asks why the disability community does not support the bill, it is important to understand that their opposition is not specific to the UAGPJA, but rather based on historical uses of state guardianship to restrict the rights of persons with disabilities.

Identifying opposition early ultimately provides a better opportunity to address confusion, frame the issue with state policy makers and prepare for hearings and/or questions from policy makers on the UAGPJA.

6. Identify lead sponsors and begin to identify key co-sponsors for pre-file introduction.

After due diligence engaging advocates, identifying supporting organizations, and weeding out opponents, it is time to start considering the best sponsors for the legislation. This process will likely begin in November after the elections to take into account any changes in committee chairmanship, legislative leadership, and the Governor’s office.

As with any legislation, sponsors are often the key to ensuring the legislation makes it from introduction to signing. More senior members of the legislature may give the legislation automatic credibility simply by sponsoring it. At the same time, freshman legislators may be more willing to spend time ushering the legislation through the process. If a state legislature has a respected leader on guardianship or senior issues, he or she may be the best candidate to approach about sponsoring the bill. In other cases, state legislators more familiar with uniform laws maybe the best to sponsor this legislation. It is always a good idea to talk with the Committee Chair or his or her staff about possible sponsors a Chairman may have preferences on hearing legislation from certain members over others.

Finding the right sponsor is an important step, but even the best sponsor needs the backing of supporting organizations to ensure the legislation moves swiftly through the process.

7. Engage advocates and celebrate achievements.

Building a strong network of advocates is a long, challenging, and evolving process. With any legislation, advocates want to know that their voices help produce results.
whether a getting a hearing in an important committee or having their representatives vote ‘yes’ on the floor.

As the UAGPPJA is typically an “easy” win, it can serve as a way to re-motivate advocates frustrated with stalled federal or other state policies. It also presents a chance for new advocates to learn about the legislative process.

When to motivate or use advocates is a strategic decision. In most cases, substantive advocate action puts pressure on the leadership and members of the legislature to move a bill or vote in a particular way. For example, in Oklahoma an overwhelming response by advocates to an action alert forced leadership to schedule the bill for a floor vote. (See See Action Alert – Appendix E.)

However, it is always best to consult the sponsor of the legislation before sending an action alert as there may be situations where constituent pressure on an issue backfires. This also gives the sponsor a heads up about the action alert so his or her office is ready to respond to questions from other members.

Conclusion

Adult guardianship involving multiple states is a complex situation faced by many Alzheimer families. Ideally over the next five years, all jurisdictions will adopt the UAGPPJA, making one aspect of the adult guardianship process a little easier for Alzheimer families.
APPENDIX A
Model the UAGPPJA Legislation

UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT

[ARTICLE] 1
GENERAL PROVISIONS

SECTION 101. SHORT TITLE. This [act] may be cited as the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

SECTION 102. DEFINITIONS. In this [act]:

(1) “Adult” means an individual who has attained [18] years of age.

(2) “Conservator” means a person appointed by the court to administer the property of an adult, including a person appointed under [insert reference to enacting state’s conservatorship or protective proceedings statute].

(3) “Guardian” means a person appointed by the court to make decisions regarding the person of an adult, including a person appointed under [insert reference to enacting state’s guardianship statute].

(4) “Guardianship order” means an order appointing a guardian.

(5) “Guardianship proceeding” means a judicial proceeding in which an order for the appointment of a guardian is sought or has been issued.

(6) “Incapacitated person” means an adult for whom a guardian has been appointed.

(7) “Party” means the respondent, petitioner, guardian, conservator, or any other person allowed by the court to participate in a guardianship or protective proceeding.

(8) “Person,” except in the term incapacitated person or protected person, means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(9) “Protected person” means an adult for whom a protective order has been issued.

(10) “Protective order” means an order appointing a conservator or other order related to management of an adult’s property.

(11) “Protective proceeding” means a judicial proceeding in which a protective order is sought or has been issued.

(12) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(13) “Respondent” means an adult for whom a protective order or the appointment of a guardian is sought.

(14) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

Legislative Note: A state that uses a different term than guardian or conservator for the person appointed by the court or that defines either of these terms differently may, but is not encouraged to, substitute its own
term or definition. Use of common terms and definitions by states enacting this Act will facilitate resolution of cases involving multiple jurisdictions.

SECTION 103. INTERNATIONAL APPLICATION OF [ACT]. A court of this state may treat a foreign country as if it were a state for the purpose of applying this [article] and [Articles] 2, 3, and 5.

SECTION 104. COMMUNICATION BETWEEN COURTS.

[(a)] A court of this state may communicate with a court in another state concerning a proceeding arising under this [act]. The court may allow the parties to participate in the communication. [Except as otherwise provided in subsection (b), the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

(b) Courts may communicate concerning schedules, calendars, court records, and other administrative matters without making a record.]

Legislative Note: An enacting state is encouraged to enact the bracketed language so that a record will be created of the communication with the other court, even thought the record is limited to the fact that the communication occurred. In some states, however, a legislative enactment directing when a court must make a record in a judicial proceeding may violate the separation of powers doctrine. Such states are encouraged to achieve the objectives of the bracketed language by promulgating a comparable requirement by judicial rule.

SECTION 105. COOPERATION BETWEEN COURTS.

(a) In a guardianship or protective proceeding in this state, a court of this state may request the appropriate court of another state to do any of the following:

(1) hold an evidentiary hearing;
(2) order a person in that state to produce evidence or give testimony pursuant to procedures of that state;
(3) order that an evaluation or assessment be made of the respondent;
(4) order any appropriate investigation of a person involved in a proceeding;
(5) forward to the court of this state a certified copy of the transcript or other record of a hearing under paragraph (1) or any other proceeding, any evidence otherwise produced under paragraph (2), and any evaluation or assessment prepared in compliance with an order under paragraph (3) or (4);
(6) issue any order necessary to assure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent or the incapacitated or protected person;
(7) issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including protected health information as defined in 45 C.F.R. Section 164.504 [, as amended].

(b) If a court of another state in which a guardianship or protective proceeding is pending requests assistance of the kind provided in subsection (a), a court of this state has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

Legislative Note: A state that permits dynamic references to federal law should delete the brackets in subsection (a)(7). A state that requires that a reference to federal law be to that law on a specific date should delete the brackets and bracketed material, insert a specific date, and periodically update the reference.

SECTION 106. TAKING TESTIMONY IN ANOTHER STATE.
(a) In a guardianship or protective proceeding, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

(b) In a guardianship or protective proceeding, a court in this state may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. A court of this state shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony.

[(c) Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the best evidence rule.]

Legislative Note: In cases involving more than one jurisdiction, documentary evidence often must be presented that has been transmitted by facsimile or in electronic form. A state in which the best evidence rule might preclude the introduction of such evidence should enact subsection (c). A state that has adequate exceptions to its best evidence rule to permit the introduction of evidence transmitted by facsimile or in electronic form should delete subsection (c).

[ARTICLE] 2
JURISDICTION

SECTION 201. DEFINITIONS; SIGNIFICANT CONNECTION FACTORS.

(a) In this [article]:

(1) “Emergency” means a circumstance that likely will result in substantial harm to a respondent’s health, safety, or welfare, and for which the appointment of a guardian is necessary because no other person has authority and is willing to act on the respondent’s behalf;

(2) “Home state” means the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of a petition for a protective order or the appointment of a guardian; or if none, the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the petition.

(3) “Significant-connection state” means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

(b) In determining under Sections 203 and Section 301(e) whether a respondent has a significant connection with a particular state, the court shall consider:

(1) the location of the respondent’s family and other persons required to be notified of the guardianship or protective proceeding;

(2) the length of time the respondent at any time was physically present in the state and the duration of any absence;

(3) the location of the respondent’s property; and

(4) the extent to which the respondent has ties to the state such as voting registration, state or local tax return filing, vehicle registration, driver’s license, social relationship, and receipt of services.
SECTION 202. EXCLUSIVE BASIS. This [article] provides the exclusive jurisdictional basis for a court of this state to appoint a guardian or issue a protective order for an adult.

SECTION 203. JURISDICTION. A court of this state has jurisdiction to appoint a guardian or issue a protective order for a respondent if:

(1) this state is the respondent’s home state;

(2) on the date the petition is filed, this state is a significant-connection state and:
   (A) the respondent does not have a home state or a court of the respondent’s home state has declined to exercise jurisdiction because this state is a more appropriate forum; or
   (B) the respondent has a home state, a petition for an appointment or order is not pending in a court of that state or another significant-connection state, and, before the court makes the appointment or issues the order:
      (i) a petition for an appointment or order is not filed in the respondent’s home state;
      (ii) an objection to the court’s jurisdiction is not filed by a person required to be notified of the proceeding; and;
      (iii) the court in this state concludes that it is an appropriate forum under the factors set forth in Section 206;

(3) this state does not have jurisdiction under either paragraph (1) or (2), the respondent’s home state and all significant-connection states have declined to exercise jurisdiction because this state is the more appropriate forum, and jurisdiction in this state is consistent with the constitutions of this state and the United States; or

(4) the requirements for special jurisdiction under Section 204 are met.

SECTION 204. SPECIAL JURISDICTION.

(a) A court of this state lacking jurisdiction under Section 203 has special jurisdiction to do any of the following:

   (1) appoint a guardian in an emergency for a term not exceeding [90] days for a respondent who is physically present in this state;
   (2) issue a protective order with respect to real or tangible personal property located in this state;
   (3) appoint a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to Section 301.

(b) If a petition for the appointment of a guardian in an emergency is brought in this state and this state was not the respondent’s home state on the date the petition was filed, the court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

SECTION 205. EXCLUSIVE AND CONTINUING JURISDICTION. Except as otherwise provided in Section 204, a court that has appointed a guardian or issued a protective order consistent with this [act] has exclusive and continuing jurisdiction over the proceeding until it is terminated by the court or the appointment or order expires by its own terms.

SECTION 206. APPROPRIATE FORUM.
(a) A court of this state having jurisdiction under Section 203 to appoint a guardian or issue a protective order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

(b) If a court of this state declines to exercise its jurisdiction under subsection (a), it shall either dismiss or stay the proceeding. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or issuance of a protective order be filed promptly in another state.

(c) In determining whether it is an appropriate forum, the court shall consider all relevant factors, including:

(1) any expressed preference of the respondent;
(2) whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or exploitation;
(3) the length of time the respondent was physically present in or was a legal resident of this or another state;
(4) the distance of the respondent from the court in each state;
(5) the financial circumstances of the respondent’s estate;
(6) the nature and location of the evidence;
(7) the ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;
(8) the familiarity of the court of each state with the facts and issues in the proceeding; and
(9) if an appointment were made, the court’s ability to monitor the conduct of the guardian or conservator.

SECTION 207. JURISDICTION DECLINED BY REASON OF CONDUCT.

(a) If at any time a court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct, the court may:

(1) decline to exercise jurisdiction;
(2) exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the respondent or the protection of the respondent’s property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or
(3) continue to exercise jurisdiction after considering:

(A) the extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the court’s jurisdiction;
(B) whether it is a more appropriate forum than the court of any other state under the factors set forth in Section 206(c); and
(C) whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of Section 203.

(b) If a court of this state determines that it acquired jurisdiction to appoint a guardian or issue a protective order because a party seeking to invoke its jurisdiction engaged in unjustifiable
conduct, it may assess against that party necessary and reasonable expenses, including attorney’s fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses. The court may not assess fees, costs, or expenses of any kind against this state or a governmental subdivision, agency, or instrumentality of this state unless authorized by law other than this [act].

SECTION 208. NOTICE OF PROCEEDING. If a petition for the appointment of a guardian or issuance of a protective order is brought in this state and this state was not the respondent’s home state on the date the petition was filed, in addition to complying with the notice requirements of this state, notice of the petition must be given to those persons who would be entitled to notice of the petition if a proceeding were brought in the respondent’s home state. The notice must be given in the same manner as notice is required to be given in this state.

SECTION 209. PROCEEDINGS IN MORE THAN ONE STATE. Except for a petition for the appointment of a guardian in an emergency or issuance of a protective order limited to property located in this state under Section 204(a)(1) or (a)(2), if a petition for the appointment of a guardian or issuance of a protective order is filed in this state and in another state and neither petition has been dismissed or withdrawn, the following rules apply:

1. If the court in this state has jurisdiction under Section 203, it may proceed with the case unless a court in another state acquires jurisdiction under provisions similar to Section 203 before the appointment or issuance of the order.

2. If the court in this state does not have jurisdiction under Section 203, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the court in this state shall dismiss the petition unless the court in the other state determines that the court in this state is a more appropriate forum.

[ARTICLE] 3
TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP

SECTION 301. TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP TO ANOTHER STATE.

(a) A guardian or conservator appointed in this state may petition the court to transfer the guardianship or conservatorship to another state.

(b) Notice of a petition under subsection (a) must be given to the persons that would be entitled to notice of a petition in this state for the appointment of a guardian or conservator.

(c) On the court’s own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the petition, the court shall hold a hearing on a petition filed pursuant to subsection (a).

(d) The court shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and the court finds that:

1. the incapacitated person is physically present in or is reasonably expected to move permanently to the other state;

2. an objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the incapacitated person; and
(3) plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

(e) The court shall issue a provisional order granting a petition to transfer a conservatorship and shall direct the conservator to petition for conservatorship in the other state if the court is satisfied that the conservatorship will be accepted by the court of the other state and the court finds that:

(1) the protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors in Section 201(b);

(2) an objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the protected person; and

(3) adequate arrangements will be made for management of the protected person’s property.

(f) The court shall issue a final order confirming the transfer and terminating the guardianship or conservatorship upon its receipt of:

(1) a provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to Section 302; and

(2) the documents required to terminate a guardianship or conservatorship in this state.

SECTION 302. ACCEPTING GUARDIANSHIP OR CONSERVATORSHIP TRANSFERRED FROM ANOTHER STATE.

(a) To confirm transfer of a guardianship or conservatorship transferred to this state under provisions similar to Section 301, the guardian or conservator must petition the court in this state to accept the guardianship or conservatorship. The petition must include a certified copy of the other state’s provisional order of transfer.

(b) Notice of a petition under subsection (a) must be given to those persons that would be entitled to notice if the petition were a petition for the appointment of a guardian or issuance of a protective order in both the transferring state and this state. The notice must be given in the same manner as notice is required to be given in this state.

(c) On the court’s own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to subsection (a).

(d) The court shall issue an order provisionally granting a petition filed under subsection (a) unless:

(1) an objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the incapacitated or protected person; or

(2) the guardian or conservator is ineligible for appointment in this state.

(e) The court shall issue a final order accepting the proceeding and appointing the guardian or conservator as guardian or conservator in this state upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to Section 301 transferring the proceeding to this state.
(f) Not later than [90] days after issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the law of this state.

(g) In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the incapacitated or protected person’s incapacity and the appointment of the guardian or conservator.

(h) The denial by a court of this state of a petition to accept a guardianship or conservatorship transferred from another state does not affect the ability of the guardian or conservator to seek appointment as guardian or conservator in this state under [insert statutory references to this state’s ordinary procedures law for the appointment of guardian or conservator] if the court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

[ARTICLE] 4
REGISTRATION AND RECOGNITION OF ORDERS FROM OTHER STATES

SECTION 401. REGISTRATION OF GUARDIANSHIP ORDERS. If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this state, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register, may register the guardianship order in this state by filing as a foreign judgment in a court, in any appropriate [county] of this state, certified copies of the order and letters of office.

SECTION 402. REGISTRATION OF PROTECTIVE ORDERS. If a conservator has been appointed in another state and a petition for a protective order is not pending in this state, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the protective order in this state by filing as a foreign judgment in a court of this state, in any [county] in which property belonging to the protected person is located, certified copies of the order and letters of office and of any bond.

SECTION 403. EFFECT OF REGISTRATION.

(a) Upon registration of a guardianship or protective order from another state, the guardian or conservator may exercise in this state all powers authorized in the order of appointment except as prohibited under the laws of this state, including maintaining actions and proceedings in this state and, if the guardian or conservator is not a resident of this state, subject to any conditions imposed upon non-resident parties.

(b) A court of this state may grant any relief available under this [act] and other law of this state to enforce a registered order.

[ARTICLE] 5
MISCELLANEOUS PROVISIONS

SECTION 501. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 502. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This [act] modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section
7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

**SECTION 503. REPEALS.** The following acts and parts of acts are hereby repealed:

(1) ........................................

(2) ........................................

(3) ........................................

**Legislative Note:** Upon enactment, the state should repeal existing provisions on subject matter jurisdiction for adult guardianship and protective proceedings. If existing provisions address proceedings for both minors and adults, the provisions should be amended to limit their application to minors. In addition, the state should repeal or limit to minors any existing provisions authorizing transfer of a guardianship or conservatorship proceeding to another state and any provisions authorizing a guardian or conservator to act in another state.

**SECTION 504. TRANSITIONAL PROVISION.**

(a) This [act] applies to guardianship and protective proceedings begun on or after [the effective date].

(b) [Articles] 1, 3, and 4 and Sections 501 and 502 apply to proceedings begun before [the effective date], regardless of whether a guardianship or protective order has been issued.

**SECTION 505. EFFECTIVE DATE.** This [act] takes effect.................
APPENDIX C
Sample Request for Guardianship Stories

Dear [Name]:

The Alzheimer’s Association is looking for families that have been through the adult guardianship process to tell their stories.

The Alzheimer’s Association Southeast Florida Chapter is working in unison with our State Chapters and National Office to enable enactment of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (the UAGPPJA) in the 2011 Florida Legislative Session.

**Description:** This legislation would enable courts in different states to communicate with each other about adult guardianship and determine the appropriate court to oversee the guardianship process. This legislation is a uniform law developed and supported by the Uniform Law Commission and only makes procedural changes to adult guardianship law. It does not make substantive changes to adult guardianship law.

**Rationale:** Jurisdiction in adult guardianship cases is complicated because multiple states, each with its own adult guardianship system, may have an interest in a case. Currently, the U.S. has more than 50 different adult guardianship systems, and no channel exists for courts to communicate with courts in other states about adult guardianship jurisdiction issues.

**Why this matters:** Adult guardianship jurisdictional issues commonly arise for individuals with Alzheimer’s disease in situations involving snowbirds, transferred/long-distance caregiving arrangements, interstate health markets, wandering, and even the occasional incidence of elderly kidnapping.

I welcome being contacted by anyone who may be able to contribute to achieving enactment of this legislation.

Kind Regards,
APPENDIX D
Sample Letter Asking for State Bar Association Support

Dear [Name],

The Alzheimer’s Association strongly urges your support of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (the UAGPPJA) to create a more uniform and efficient adult guardianship jurisdiction system.

Contested guardianship cases are becoming more frequent. This legislation establishes a uniform set of rules for determining the state of jurisdiction simplifying the guardianship process when multiple states are involved. The UAGPPJA provides uniform rules, similar to those for child custody cases, for establishing, enforcing, and transferring guardianship orders. It does not change substantive guardianship law in states, but instead provides solutions to the jurisdictional issues faced when individuals move across state lines. Enacting the UAGPPJA will reduce litigation and ultimately improve the lives of those involved in the guardianship process.

The experience of real people illustrates that adult guardianship issues frequently can intersect with the needs of people with Alzheimer’s disease and their families. Due to the impact of dementia on a person’s ability to make some decisions, persons with Alzheimer’s disease may need the assistance of a guardian. Many Alzheimer caregivers are classified as long distance caregivers, living more than two hours from the person for whom they provide care. When this distance involves crossing state lines, the current system, with its disorganized array of state adult guardianship laws and the lack of communication between states, complicates an already stressful situation.

Families that need to travel to another state for healthcare services may encounter difficulty enforcing existing guardianship rights or establishing new ones if, for example, through an extended hospital stay, it becomes apparent a person now needs the assistance of a guardian.

Attached is the model legislation from the Uniform Law Commission. To date, 19 states have enacted the UAGPPJA. The potential of the Act to improve the law and the lives of those affected will only be realized by enactment in all 50 states. As we begin to plan for the 2011 Legislative Session, we encourage you to review the UAGPPJA and let us know if you have any questions.

By working together to enact the UAGPPJA, we can make one aspect of caregiving easier for the [number] Alzheimer families in [state], by joining with us to support the UAGPPJA.

Thank you,
APPENDIX E
Sample Action Alert

Uniform Adult Guardianship Protective Proceedings Jurisdiction Act (the UAGPPJA)
[bill number]

Action Alert!

what: E-mail your Representative/Senator to vote YES on [bill number].

when: [Date and Time].

Dear:

A key piece of legislation regarding Alzheimer's care is stalled and we need you to make our position heard.

Use this link to contact your Senator by [Date].

You will be asking your [Representative/Senator] to place [bill number] on the calendar and Vote YES to improving adult guardianship in [state].

This bill will help the thousands of Alzheimer's families avoid unnecessary financial and emotional burdens caused by the need to obtain guardianship in multiple states. It is budget-neutral and enables courts in different states to communicate with each other about adult guardianship.

Don't forget:
Take Action Today >>

Background

[bill number] is the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (the UAGPPJA).

Alzheimer's families can face unnecessary financial and emotional burdens caused by the need to obtain guardianship in multiple states. Currently, no channel exists for courts in the state of [state] to communicate with courts in different states about adult guardianship jurisdiction issues.
This legislation establishes a uniform set of rules for determining jurisdiction in order to simplify the process of adult guardianship cases and creates a framework that allows state court judges in different states to communicate with each other about adult guardianship cases.

[Number] families in [state] are touched by someone with Alzheimer’s disease or related dementia. As these families travel or tackle the issues of long-distance caregiving, they may encounter difficulty enforcing existing guardianship rights or establishing new ones. This legislation makes one aspect of Alzheimer’s easier both for the individual with the disease and their family.

Kintera/Blackbaud Sample Email to elected official

[Date]

[Legislative Address]

Dear [senator / representative and last name]

I am a constituent in your district. Please support passage of [Bill number], the Uniform Adult Guardianship Protective Proceedings Jurisdiction Act (the UAGPPJA). This legislation establishes a uniform set of rules for determining jurisdiction in order to simplify the process of adult guardianship cases and creates a framework that allows state court judges in different states to communicate with each other about adult guardianship cases. Already 19 states have passed this legislation and more will likely pass it this year.

[Number] families in [state] are touched by someone with Alzheimer’s disease or related dementia. As these families travel or tackle the issues of long-distance caregiving they may encounter difficulty enforcing existing guardianship rights or establishing new ones. This legislation makes one aspect of Alzheimer’s easier both for the individual with the disease and their family.

Please place [Bill number] on the Legislative Calendar and Vote YES to improving adult guardianship in Oklahoma.

For more information on [Bill number], contact [Chapter Contact information].

Sincerely,

[SIGN YOUR NAME]
APPENDIX F
Sample Letter to State Legislators

Dear ____________,

The Alzheimer’s Association strongly supports the adoption of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (the UAGPPJA), [bill number], to create a more uniform and efficient adult guardianship jurisdiction system. The legislation establishes a uniform set of rules for determining jurisdiction to simplify the process in multiple states in adult guardianship cases. It also creates a framework that allows state court judges in different states to communicate with each other about adult guardianship cases.

Due to the impact of dementia on a person’s ability to make some decisions, people with Alzheimer’s disease may need the assistance of a guardian. Currently, the U.S. has 55 different adult guardianship systems. Often, jurisdiction in adult guardianship cases becomes complicated because multiple states, each with its own adult guardianship system, may have an interest in the case. Consequently, it may be unclear which state court has jurisdiction to decide the guardianship issue.

The experience of real people illustrates that adult guardianship issues frequently can intersect with the needs of people with Alzheimer’s disease and their families. Ten percent of the caregivers of people with Alzheimer’s are classified as long distance caregivers (living more than two hours from the person for whom they provide care). When this distance involves crossing state lines, the current system -- with its disorganized array of state adult guardianship laws and the lack of communication between states -- complicates an already stressful situation. Many [state] families are caregivers to family members who live outside [state], and conversely, many families in other states are caregivers to family members here in [state].

When families in [state] travel to another state to receive healthcare services, they may encounter difficulty enforcing existing guardianship rights or establishing new ones if for example through an extended hospital stay, it becomes apparent a person now needs the assistance of a guardian.

By working together to enact the UAGPPJA, we can make one aspect of caregiving easier for the [number] Alzheimer families in [state], by joining with us to support the UAGPPJA.

Thank you,
“House File 734, Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act was signed into law by Iowa Governor Chet Culver on March 22, 2010. The new law will assist in the resolution of interstate guardianship issues which will benefit Iowans with dementia, especially those who have guardianships in Iowa but spend winters in other states, caregivers in other states and/or those who may wander across state lines. The Alzheimer’s Association, Iowa Chapter Network, along with the Uniform Law Commissioners of Iowa, advocated for this legislation. On hand to witness the signing, from left to right, were Carol Sipfle, Executive Director of the Greater Iowa Chapter, Marian Johnsen, Public Policy Coordinator for the Greater Iowa Chapter, John Sandblom, advocate, Debbie Jones, Board Member of the East Central Iowa Chapter and David Walker, Uniform Law Commissioner and Professor of Law at Drake University.”

SOURCE: The Picture and caption above are from Iowa Governor, Chet Culver’s Flicker webpage. (http://www.flickr.com/photos/govculver/)
Local Alzheimer support group, care centers seeking help from lawmakers

COLUMBUS - Volunteer advocates with the Alzheimer's Association - Greater East Ohio Chapter traveled to Columbus recently for Memory Day to talk with Ohio legislators regarding issues affecting individuals in our local community related to Alzheimer's disease and dementia.

Topics discussed with the legislators included:
- Support the development of an Alzheimer's State Plan, that will provide a comprehensive and coordinated response to Alzheimer's disease in Ohio.
- Protect the Alzheimer’s Respite Line Item (490-414) from funding reductions.
- Support adoption of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act. Currently, the U.S. has more than 50 different adult guardianship systems, and no channel exists for courts in Ohio to communicate with courts in different states about adult guardianship jurisdiction issues.

See, MEMORY, Page D5

Keep Medicaid accessible to persons with Alzheimer's. As Ohio continues its reform of the Medicaid program, persons with Alzheimer's need to be assured that they will continue to receive needed services in the most appropriate setting.

After an impassioned program and pep rally, advocates had individual meetings with senators and representatives from each of the 17 counties in our service area. Family caregivers shared stories with their legislators about the difficulties of caring for a person with memory loss and the need for continuation of supportive services.

Over 230,000 Ohioans currently have Alzheimer’s disease, and all of the issues discussed at Memory Day will affect some or all of those individuals and their family members in one way or another throughout their experience with the disease. For example, through Ohio’s Respite Line Item, the state designates funds to assist families caring for a loved one with memory loss. State funding also supports a 24/7 Helpline for people who have questions about Alzheimer’s disease, proper diagnosis and treatment, or for people who simply need supportive listening for their caregiving journey.

The Alzheimer’s Association’s goal is to ensure that this funding is protected in Ohio’s budget, so that local families can find the help they need.

The group also is in need of the public’s caregiving stories. To learn more about becoming a volunteer advocate for the Alzheimer’s Association, contact the group at 1-800-272-3900 or tina.goynes@alz.org.
VOLUNTEER ADVOCATES with the Alzheimer’s Association – Greater East Ohio Chapter took their annual trip to Columbus in support of Alzheimer’s and dementia related funding and to make elected officials aware of this terrible disease. From left are Mary Ann Reese of Charity Hospice, Janice Hasley of Dixon Nursing and Rehabilitation, Ralph Myers and Teresa Workman. Seated is Ohio Rep. John Dominic (D-Smithfield).
Dear [State Representative/Senator],

Thank you for sponsoring the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act [bill number]. As you know, this new law will enable [state] courts to communicate effectively with courts in other states about adult guardianship issues.

This law is especially important for [number] individuals with Alzheimer’s disease and related dementia and their families in [state]. Interstate guardianship issues arise in situations involving snowbirds, transferred/long-distance caregiving arrangements, interstate health markets, wandering, and even the occasional incidence of elderly kidnapping. [State]’s neighboring state[s] [neighboring state] have recently enacted this law along with [number] other states.

We are extremely grateful for your assistance in shepherding this bill through the legislative process. Please let us know if the Alzheimer’s Association can ever be of assistance in providing information or services to you or your constituents.

Sincerely,