

Third Supplement to Memorandum 2013-15

Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (Question Raised by Jacquie Paige)

Jacquie Paige, a member of AARP California's Executive Council, has raised a question about the registration process in the draft attached to Memorandum 2013-15. In particular, Ms. Paige wants to know whether the draft would permit an out-of-state conservator to register a conservatorship in California even though the conservator would not be eligible to serve as such in California. See Email from J. Paige to B. Gaal (4/9/13).

The short answer to Ms. Paige's question is "yes." Under UAGPPJA, the registration process is a ministerial filing of a conservatorship order entered in another state. There is no mechanism for evaluation of the other state's choice of conservator or any other aspect of the conservatorship order. The underlying concept is to extend comity to the other state's order and thereby allow the conservator to take action in the state of registration, subject to the requirement that the conservator comply with the laws of that state. See UAGPPJA §§ 401, 402 & Art. 4 General Comment. In other words, the process would extend comity to the other state's conservatorship order regardless of whether the conservator would or would not be eligible to serve in the state of registration.

The draft attached to Memorandum 2013-15 would not alter this aspect of UAGPPJA's registration process. See Memorandum 2013-15, Attachment pp. 29-31 (proposed Prob. Code §§ 2011-2014 & Comments). That approach seems reasonable, because (1) California has only an attenuated interest in an out-of-state conservatorship, (2) it would be costly and burdensome for a court to assess whether an out-of-state conservator would be eligible to serve in California, and (3) second-guessing the other state's choice of conservator would be inconsistent

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

with the principle of comity. **The staff recommends that the Commission stick with the current approach.**

Respectfully submitted,

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