

Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGAPPJA)

Adult guardianship is a legal relationship under which a person is appointed by a court to act on behalf of an adult deemed ‘incapacitated’ due to medical conditions, mental health, or I/DD. The guardian then has the authority to make decisions about the person’s personal affairs (e.g., living situation), medical decisions, and/or financial affairs.

UAGAPPJA (*pronounced “YOU-AH-GAP-JAH”*) is a national law that addresses issues related to *jurisdiction* of an adult guardianship case. This law is narrow in scope and does not apply to broader guardianship laws. A second act, the **Uniform Guardianship and Protective Proceedings Act** is a more expansive and comprehensive act that addresses all areas of the guardianship process.

UAGAPPJA focuses on three main areas:

- 1) determination of the most appropriate state for initial guardianship filing,
- 2) transfer of a guardianship action from state to state, and
- 3) recognition and registration of guardianship orders in states other than the primary state of jurisdiction or filing

North Carolina is one of a handful of states that have not yet enacted UAGAPPJA.

Example: Sarah’s mother lives in North Carolina but is no longer able to live alone or make financial or health decisions on her own. Sarah lives in Georgia and decided to move her mother to Georgia with her. Sarah filed for guardianship in Georgia so she could manage her finances and medical care. Sarah’s mother owns a home in NC but Sarah cannot sell the house or manage assets until she has guardianship status in NC (which can take months and can be expensive). UAGAPPJA would set provisions for NC to recognize the guardianship status from Georgia and Sarah would have the legal authority to more quickly manage her mother’s assets here in NC.

In North Carolina, Clerks or assistant clerks of court serve as the judge for matters relating to guardianship. The guardian can serve as a surrogate decision maker in all areas of a person’s life (full guardianship) or only in certain areas (limited guardianship) where the Court deemed the individual competent to make decisions (e.g., medical decisions, financial assistance). Guardians can serve temporarily or indefinitely depending on the nature of the incapacity.

At the national level, the Olmstead decision (1999) and Department of Justice settlements call for individuals with disabilities to be placed in ‘less restrictive living and work environments to give an individual as much control over their life as possible’. However, in practice Courts make decisions without a consistent interpretation of guardianship, or an understanding of less restrictive alternatives to guardianship. Similarly, loved ones petitioning for guardianship of a family member may not be informed of the full range of less restrictive alternatives which would allow them to help their family member without removing all individual rights and personal autonomy.