

Uniform Law Commission Concludes 116th Annual Meeting

At its 116th Annual Meeting in Pasadena, California, the National Conference of Commissioners on Uniform State Laws (NCCUSL) approved four new acts dealing with issues ranging from the problems of resolving multi-state jurisdictional disputes over adult guardianships to new rules addressing the timely issue of discovery of electronic information.

Vermont commissioners were joined by more than two hundred lawyers, judges, law professors, legislators, and government attorneys appointed in their respective jurisdictions to serve as uniform law commissioners. Uniform law commissioners are appointed by every state, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. The commissioners draft proposals for uniform laws on issues where disparity between the states is a problem. Commissioners receive no salary or fee for their work with the Commission.

As they have done each year since 1892, uniform law commissioners gathered for a full week to discuss—and debate line by line, word by word—legislative proposals drafted by their colleagues during the year. The four acts approved in California are now available for state enactment.

The new Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act addresses the issue of jurisdiction over adult guardianships, conservatorships, and other protective proceedings. Because there are more than fifty guardianship systems in the United States, problems of determining jurisdiction are frequent. This act provides an effective mechanism for resolving multi-state jurisdictional disputes. This new act contains specific guidelines to specify which court has jurisdiction to appoint a guardian or conservator for an incapacitated adult. The objective is that only one state will have jurisdiction at any one time.

The Uniform Rules Relating to Discovery of Electronically Stored Information should bring up-to-date the state rules and statutes concerning discovery in civil cases. With the emergence of electronic technology, the extent to which individuals and

institutions store or maintain information in an electronic form has clearly increased since the adoption of rules governing discovery generally. By some estimates, more than 90 percent of corporate information is being stored in some sort of digital or electronic format. This new act mirrors the recently adopted amendments to the Federal Rules of Civil Procedure dealing with electronically stored information.

The Uniform Interstate Depositions and Discovery Act provides simple procedures for courts in one state to issue subpoenas for out-of-state depositions. The Act is simple and efficient: it establishes a simple clerical procedure under which a state subpoena in the “trial state” can be used to issue a subpoena in another state. The act has minimal judicial oversight; the goal is to simplify and standardize the current patchwork of procedures across the various states for deposing witnesses for purposes of out-of-state litigation.

The Uniform Limited Cooperative Association Act addresses the cooperative form of business, a unique business entity which is different from other forms of business organizations. This act creates a new form of business entity and is an alternative to other cooperative and unincorporated structures. It is more flexible than most current law, and provides a default template that encourages planners to utilize tested cooperative principles for a broad range of entities and purposes. Vermont Commissioner Peter Langrock chaired the drafting committee on this subject.

The Uniform Emergency Volunteer Health Practitioners Act (UEVHPA), approved in 2006 and already adopted in three states, addresses the healthcare needs of disaster victims by allowing medical professionals to cross state lines in declared emergencies. The UEVHPA establishes a system whereby healthcare practitioners may register to provide volunteer services either before or during an emergency. It further authorizes healthcare facilities and disaster relief organizations in affected states or territories to use registered professionals and to rely on the registration systems to confirm that these professionals are

appropriately licensed. Newly approved amendments address the issues of workers’ compensation coverage and protection from some aspects of civil liability.

Amendments were also approved to the Uniform Representation of Children in Abuse, Neglect, and Custody Proceedings Act and the Model Entity Transactions Act.

Information on all of these acts, including the approved text of each act, can be found at the ULC website at www.nccusl.org.

Once an act is approved by the ULC, it is officially promulgated for consideration by the states, and the legislatures are urged to adopt it. Since its inception, the ULC has been responsible for more than two hundred acts, among them such bulwarks of state statutory law as the Uniform Commercial Code, the Uniform Probate Code, the Uniform Partnership Act, and the Uniform Interstate Family Support Act.

The procedures of the Uniform Law Commission ensure meticulous consideration of each uniform or model act. The ULC usually spends a minimum of two years on each draft. Sometimes the drafting work extends much longer. No single state has the resources necessary to duplicate this meticulous, careful, non-partisan effort. Working together with pooled resources through the ULC, Vermont joins with every other state to produce the impressive body of laws known as the “Uniform State Laws.”

Vermont joined the Uniform Law Commission in 1895, and since that time has enacted more than seventy-five uniform or model acts promulgated by the Commission. Vermont is represented in NCCUSL by seven lawyers: Richard T. Cassidy, Burlington; David A. Gibson, Brattleboro; Theodore C. Kramer, Brattleboro; Peter F. Langrock, Middlebury; Carl H. Lisman, Burlington; William P. Russell, Montpelier; and Stephanie J. Willbanks, South Royalton.

Richard T. Cassidy, Esq., a director of the Burlington law firm Hoff Curtis P.C., has been a Vermont Uniform Law Commissioner since 1994.

