

## Opinion No. 44-4514

May 15, 1944

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. R. F. Apodaca, Superintendent of Insurance, State Corporation Commission, Santa Fe, New Mexico

I have your letter of May 12, 1944, wherein you ask the following four questions:

"1. Is it mandatory to require a partnership or corporation which is using its trade name in transacting insurance in the State of New Mexico to secure a license as an insurance agent?"

"2. Do the provisions of Section 60-701 prohibit the use of a corporate or partnership trade name, of a corporation or partnership, in the transaction of insurance business even though only an officer of either partnership or corporation may be licensed as an insurance agent?"

"3. In view of the provisions of Section 60-417, is it permissible to place an agency sticker on a policy of the company for which the agency is not licensed?"

"4. In view of the provisions of Section 60-417, can one licensed agent enter into a brokerage contract agreement with another licensed insurance agent?"

In answer to your first question, it is my opinion that if a partnership or corporation uses its trade name in transacting insurance in the State of New Mexico, it must secure a license as an insurance agent. See Opinion No. 4227 formerly given by this office.

In answer to your second question, it is my opinion that if the corporation or partnership, as such, is not licensed, it cannot do business as a corporation or partnership merely because an officer of a corporation or partnership is licensed. Before a corporation or partnership can do business in the firm name, it must be licensed as an insurance agent.

It is my opinion, in answer to your third question, that an agency sticker may not be placed on a policy of a company for which the agency is not licensed, under the provisions of the Section which you call our attention to.

Under the fourth inquiry, I call your attention to the following portion of Section 60-417, to-wit:

"Provided that any licensed agent of any insurance company may pay to any other licensed agent of any insurance company, for services rendered, any part of any

commission received by him from any insurance company he is licensed in New Mexico to represent."

It is my opinion that licensed insurance agents of a particular insurance company may enter into brokerage contracts under the above provision with other licensed insurance agents of the same company in order to take advantage of the above mentioned provision, so long as the provisions of such contract contemplate what is set out in the above quoted portion of the statute.

By HARRY L. BIGBEE,

Asst. Atty. General