

## Opinion No. 45-4765

July 28, 1945

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mr. C. R. Sebastian State Comptroller Santa Fe, New Mexico

{\*114} In our conversation this morning you stated that there was considerable confusion among the county clerks as to what charges they should make in rendering services to veterans. While there have been various opinions given in the past to the separate questions, I will attempt to set out all the pertinent provisions of the statute.

Section 66-1501 of the 1941 Compilation provides:

"The county clerks of the several counties of the state shall, upon presentation to them, record, free of charge, in the volume known and designated as 'Miscellaneous Records,' the discharge papers of any soldier, sailor, marine, aviator, army nurse, yeomanette, who was accepted for service and served in the armed forces of the United States for thirty (30) days or more at any time in which the United States was officially engaged in any war."

Section 66-1509 of the 1941 Compilation provides:

"Whenever any soldier shall request of the county clerk of any county a certified copy of his marriage license, it shall be the duty of such county clerk to prepare and certify to such copy of the requested marriage license free of cost to the soldier, provided that the certified copy of said marriage license is to be used and filed with the veterans bureau of the United States in accordance with the regulations thereof."

Section 16, Chapter 117 of the Laws of 1945 provides:

"Copies of Public Records to be furnished. When a copy of any public record is required by the Veterans Administration, to be used in determining the eligibility of any person to participate in benefits made available by the Veterans Administration, the official custodian of such public record shall, without charge, provide the applicant for such benefits, or any person acting on his behalf, or the authorized representative of the Veterans Administration, with the certified copy of such record."

In view of the foregoing sections, it is my opinion that services should be rendered veterans free of charge as follows:

1. County clerks shall record free of charge the discharge papers of any member of the armed service who served for 30 days or more at any time in which the United States was officially engaged in any war. It is observed that under this section no distinction is made as to whether or not the discharge be honorable or otherwise. Further, pursuant

to Opinion No. 4255, this section is applicable to veterans of the present war, as well as veterans of any past war.

2. Under Chapter 117, supra, the county clerks should furnish free of charge to members of the armed forces, or any other persons entitled to relief under the Veterans Administration, certified copies of discharge papers, birth and death certificates, marriage licenses, and any other public records when the same are required by the Veterans Administration to be used in determining the eligibility of such person for benefits under the Veterans Administration. The application must be made by the person who seeks the benefits or some person acting on his behalf or by an authorized representative of the Veterans Administration.

If the Red Cross makes application for such certificate as an agent of the person seeking the benefits or as a representative of the Veterans Administration, it would be entitled to the certificates free of charge; otherwise, not.

3. In the event an honorably discharged veteran who had served in the armed forces of the United States for 30 days or more while the United States was at war made application for a certified copy of his marriage license so that the same could be filed with the Veterans Administration, he would be entitled to the same free of charge even though it was not to be used by the Veterans Administration to determine his eligibility to participate in the benefits given by the Veterans Administration.

The above statutes are the only ones to the knowledge of the writer providing for free services to be rendered by the various county clerks to veterans.

By ROBERT W. WARD,

Asst. Atty. General