

## Opinion No. 60-58

March 28, 1960

**BY:** OPINION of HILTON A. DICKSON, JR., Attorney General

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

### QUESTION

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Is the American Ambulance Association doing business as an Insurance Company when it sells or purports to sell memberships to members of the public which entitles them to free ambulance service from any contract operator in the event of sickness or injury requiring the use of an ambulance, where the member after paying dues in accordance with the application form is issued an identity card which entitles him to free ambulance service as specified in the rules covering the obligation of the association and the ambulance operators to the members and specifies the terms and conditions and limitations of the use of such ambulance?

#### CONCLUSION

No.

### OPINION

#### {\*416} ANALYSIS

The decisive element in such a case appears to be whether or not the American Ambulance Association is insuring its members against any loss incurred **upon the happening of a hazard or peril**, or whether it is merely contracting to provide ambulance **service** upon specified terms. If the former, it is insurance; if the latter, it is not. **Jordan v. Group Health Assn.**, (D.C. 1939), 107 F. (2d) 239; 29 Am. Jur. Insurance, Sec. 12.5 (pocket part); **Fishback v. Universal Service Agency**, 87 Wash. 413, 151 Pac. 768; Opinion of New Mexico Attorney General, 1957-58, No. 57-29; Opinion of Colorado Attorney General, 1958, No. 58-3184.

This office is of the opinion that the furnishing of ambulance service in accordance with the facts stated above by virtue of contracts with ambulance operators to dues paying members does not assume as its primary purpose a risk, hazard or peril but merely constitutes a contract to furnish services and, therefore, does not amount to the doing of an insurance business in the State of New Mexico.

By: Patricio S. Sanchez

Assistant Attorney General