

MAINE STATE LEGISLATURE

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October 20, 1944

To Guy R. Whitten, Deputy Commissioner of Insurance
From Abraham Breitbard, Deputy Attorney General

This office is in receipt of your Memoranda "One" and "Two", dated July 24, 1944, concerning the issuance of licenses by your department. Memorandum One relates to licensing of insurance agents and "Two" relates to the licensing of foreign insurance companies for admission to do business in this State.

Taking up the latter, I agree with you in your interpretation of the law that there is no statutory provision which would authorize you to limit the scope of the type of business that the company is to write. The discretion vested in you is either to admit or to refuse to admit it, so that when you find it qualifies for admission, the license is issued and the nature and extent of the risks that it may write are as defined by its charter. Thus, you are correct when you say that having determined that the company has met the qualifications prescribed by the statute and is admitted, it would not lie within the powers vested in the Insurance Commissioner to restrict or limit the license to one or more but not all risks that its charter permits it to insure against.

But while this may be a limitation on your powers, I can see no obstacle to your licensing a company to write, let us say, Workman's Compensation, where in addition it is authorized by its charter to write fire insurance and it qualifies, financially and otherwise, to write both, when it requests that its license be limited to Workman's Compensation only.

Unquestionably, if a company applies for admission, whose corporate powers are limited to writing Workman's Compensation, your license would be so limited, and I can't see why an insurance company with broader powers may not request that the license issued to it be limited to one or more of the distinct risks of insurance authorized by its charter.

Having issued a license to a company to write a particular kind and type of insurance, there would seem to be no reason why licenses to its agents may not be issued on the same basis, particularly where the applicant requests that the license issued to him be so limited.

It may well be that in the administration of your office, administrative policy may dictate that you should adhere to the practice that has prevailed in the Department. I do not concern myself with that. The administration of the office belongs to the Department. Your question addressed to me is whether there is anything in the statute which would prevent you legally from issuing a license which would restrict the line of writing, although the charter is broader in its scope, where the company so requests it. I think that you may grant such a request in your discretion.

Abraham Breitbard
Deputy Attorney General

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