

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

470  
August 3, 1967

H. W. McKowen, Executive Secretary  
Robert G. Fuller, Jr., Assistant  
Group Accident Coverage

Insurance Advisory Board  
Attorney General

**FACTS:**

The Department of Education has requested the Insurance Advisory Board to assist in preparing a group accident policy covering State employees to become effective September 1, 1967. Me. Rev. Stat. Ann., Tit. 5, § 1714 (Supp. 1966) in part provides:

"The board shall provide insurance advice for the State of Maine in the fire and allied lines, casualty, marine, aviation, surety and fidelity field with the following duties:"

**QUESTION:**

In view of the cited statutory language, may the Board properly give advice on a proposed accident policy covering State employees?

**OPINION:**

The answer to the question presented turns on whether accident insurance (more commonly, as I understand it, called "accident and health" insurance) can properly be considered a form of "casualty" insurance. Research indicates that it cannot.

Although it may appear to be a semantic quibble, the authors of texts on insurance law, as well as the courts, draw a distinction between casualty insurance and accident and health insurance. "Casualty insurance" is defined as insuring against risks to property, whereas accident and health insurance insures against risks to the person. See Vance, Insurance, p. 90 (2d ed. 1951). Appleman, Insurance Law and Practice treats the two subjects under completely different headings. Vance also points out that while casualty insurance is one of the oldest types of insurance, the development of accident insurance dates from only shortly after 1860. Vance, op. cit., p. 25.

Some older cases draw this same distinction. See Employers' Liability Assurance Corporation v. Merrill, 155 Mass. 404, 29 N.E. 529 (1892):

"The distinguishing feature of what is known in our legislation as 'accident insurance' is that it indemnifies against the effects of accidents resulting in bodily injury or death. Its field is not to insure against loss or damage to property generally, although occasioned by accidents. So far as that class of insurance has been developed, it has been with reference to boilers, plateglass, and perhaps domestic animals, and injury to property by street cars, and is known as 'casualty insurance.'"

But see State v. Federal Investment Co., 48 Minn. 110, 50 N.W. 1028 (1892) ("casualty insurance" means insurance against loss resulting in bodily injury).

The language in later cases blurs the line between "accident" and "casualty" but still recognizes the distinction. See Liverpool & London & Globe Ins. Co. v. Jones, 207 Ark. 237, 180 S.W.2d 519 (1944) (holding that "casualty insurance" insures against loss through "accident or casualties" (!) resulting in bodily injury, but that term "more properly applied to insurance against effects of accidents resulting in injuries to property.") Cf. Estate of Noel v. Commissioner, 332 F.2d 950 (3d Cir., 1964) ("Accident policy" indemnifies insured against bodily injury, or designated beneficiary in event of death of insured), rev'd on other grounds sub. nom. Commissioner v. Estate of Noel, 380 U.S. 678, 85 S. Ct. 1238, 14 L. Ed.2d 159 (1965).

The title of the subchapter creating the Insurance Advisory Board is "Insurance on State-Owned Property." Other subparagraphs of Ms. Rev. Stat. Ann., Tit. 5, § 1714 (Supp. 1966) speak in terms of property insurance (although query whether the term "activities" as used in subparagraphs 1 and 2 may not impose some duty on the Board with regard to State personnel) and it would appear that, had the Legislature wished to give the Board advisory and placement powers on accident and health insurance, it would have clearly specified this well-known field of insurance as falling within the Board's jurisdiction.

I conclude that the statute, as it presently reads, does not authorize the Board to advise on accident and health programs.

---

Robert G. Fuller, Jr.  
Assistant Attorney General

RGFJr./eh