real estate brokerage or as a real estate salesman therefor shall obtain and keep renewed and wholly unrevoked a license as a real estate broker or real estate salesman as herein required.” (Our emphasis)

It is to be noted that the foregoing provision is limited to those members of a firm or association who participate or engage in the real estate brokerage business of such firm or association or who are employed as real estate salesmen therefor. The language thus does not include all members of such firm or association. Accordingly, it is my opinion that it is lawful for the Commission to issue a firm or association license where certain members or agents thereof, not licensed as individuals under the Act, may have a financial interest in the business carried on by the firm or association, but do not otherwise participate or engage in the real estate brokerage business of the corporation, so long as all other members or agents thereof who engage on its behalf as real estate brokers or salesmen are duly licensed.

OFFICIAL OPINION NO. 58

December 11, 1957

Hon. Robert A. Berning
State Representative
506 Dime Bank Building
Fort Wayne, Indiana

Dear Sir:

Your letter of November 19, 1957, in which you request an Official Opinion regarding the construction of Ch. 267 of the Acts of 1957, reads as follows:

“The opinion of your office is respectfully requested for the purpose of clarifying responsibility between governmental units, such as, the Allen County Department of Public Welfare and Township Trustee, and the various medical services in the County, such as, hospitals, doctors, etc.
"It would appear that the construction of the statute as a whole would be simplified by defining the following terms:

1. ‘Indigent’ as used in the act.

2. ‘Medical indigent’ as might be encountered by the various medical agencies and governmental units.

3. Whether the term ‘indigent’ might be expanded in its definition in the construction of said statute to cover medical indigent.

"To illustrate the problem, let us assume the following hypothetical facts: A man is married, living with his wife and two minor children; he has a take-home pay of Sixty Dollars ($60.00) per week which sum is sufficient to cover the bare necessities for his family. Unexpected medical assistance is required for the man's family, which he is absolutely unable to pay and maintain the necessaries previously assumed. Under such circumstances, the question might arise that the man is a medical indigent for the purposes of this chapter and be entitled to assistance from the governmental agency.

"The question of procedure has also arisen. Under the act herein, it appears that some conflict exists between the rules and regulations promulgated by the State Department of Public Welfare and the Township Trustee. The State Department of Public Welfare has adopted rules and regulations requiring preliminary investigation of each case to be made by the Township Trustee before referring the case under the captioned act to the County Welfare Department. I understand that this preliminary investigation involves completion of forms, which the Township Trustee does not recognize as a legal requirement preliminary to transfer. Therefore, the opinion of your office is requested to clarify this situation."

The Acts of 1957, Ch. 267, Sec. 1, as amended, as found in Burns' (1957 Supp.), Section 52-148a, to which your inquiry is addressed, reads as follows:
“In the event any indigent person is injured on any public highway in any township of this State, the overseer of the poor in such township shall immediately report such matter to the department of public welfare of the county in which such township is located, which department shall promptly provide medical and hospital care for such indigent person. The cost of any such medical and hospital care so furnished shall be borne by the county of the legal residence of the indigent, or if he has no legal residence in any county of this state by the county in which such township is located; and shall be paid out of any money appropriated to the county welfare department.”

Your letter suggests that the definition of the terms “indigent” and “medical indigent” might be helpful in construing the above-quoted Act. Neither said Act, wherein the term “indigent” is used, nor the original Act it amends [Acts of 1935, Ch. 116, as found in Burns’ (1951 Repl.), Section 52-144 et seq.] defines the term “indigent.” It therefore becomes necessary to construe the word in question in its plain, ordinary and usual sense. [2 R. S. (1852), Ch. 17, Sec. 1, as found in Burns’ (1946 Repl.), Section 1-201.] On the subject of statutory construction it has also been said:

“Where the legislature has not defined words used in the act, the court must then determine as best it can the meaning of the language in accordance with the legislative intent so as to prevent absurdities and to advance justice.”

Sutherland, Statutory Construction, 3rd Ed., Vol. 2, Sec. 4814, p. 359.

With the above-stated rules of statutory construction in mind, the term “indigent” has been defined as:

“* * * one who is needy and poor, or one who has not sufficient property to furnish him a living nor anyone able to support him to whom he is entitled to look for support. * * *”

Webster's Dictionary defines the term "indigent" as:

"Destitute, needy, poor."

It should be observed that the Act under consideration makes no reference to "medical indigents" as such, but, it may be assumed that the term "indigent" and "medical indigent," as applied to the Act in question, would be synonymous.

It should be further noted that the Act in question is limited in its scope, and the medical and hospital care referred to therein are restricted to indigents injured on public highways of the State of Indiana. Accordingly, in my opinion, the assistance provided for in said Act would not be available generally to persons referred to in your hypothetical example; however, medical and surgical aid for such persons, not directly involved in a highway accident, might well be available under the Acts of 1935, Ch. 116, Sec. 5, as found in Burns' (1951 Repl.), Section 52-148, which reads:

"The overseer of the poor in each township shall have the oversight and care of all poor persons in his township so long as they remain a charge, and shall see that they are properly relieved and taken care of in the manner required by law. He shall, in cases of necessity, promptly provide medical and surgical attendance for all of the poor in his township who are not provided for in public institutions; and shall also see that such medicines and/or medical supplies and/or special diets and/or nursing as are prescribed by the physician or surgeon in attendance upon the poor are properly furnished."

or under the Acts of 1947, Ch. 300, Sec. 1, as amended by Acts of 1951, Ch. 5, Sec. 1, as found in Burns' (1957 Supp.), Section 52-1131 which empowers the county department of public welfare to commit certain persons to hospitals designated in said Act, which reads, in part, as follows:

"The county department of public welfare of each county in this state is hereby empowered to commit to any public hospital in the county or to any public hospital in an adjacent county or to any hospital operated by the trustees of Indiana University, any person having a legal residence in such county, who shall appear
to the satisfaction of the department after examination and upon recommendation of a physician or surgeon holding an unlimited license issued by the board of medical registration and examination of Indiana to practice medicine in this state, to be suffering from a disease, defect or deformity, which may be benefited by treatment in such hospital, provided such person, or anyone chargeable under the law with the responsibility of furnishing medical, surgical or hospital care for such person is not financially able to defray the necessary expense of such medical, surgical and hospital care * * * .”

You present a further question concerning procedures established by the State Department of Public Welfare, in connection with the Act in question, which, I am informed, are published in General Public Assistance DPW Bulletin No. 218, dated June 19, 1957, and addressed to county departments of public welfare. It is my understanding that the procedures outlined in said Bulletin are not rules and regulations formally adopted by the State Department of Public Welfare but rather a statement of information and suggested procedures for the administration and implementation of Acts of 1957, Ch. 267, supra.

You have made specific reference to preliminary investigations of each case, falling under the Act in question, and completion of forms by the Township Trustee, as a requirement of the State Department of Public Welfare. The form in question appears to be a one-page form (DPW Form 475), prescribed by the State Department of Public Welfare and approved by the State Board of Accounts.

An examination of the Act in question discloses that the cost of medical and hospital care furnished indigents covered by the Act is borne by the appropriate county welfare department. In my opinion it is reasonable to assume that such department must obtain reliable information concerning the injured indigents covered by said Act, in order to justify the expenditure of county funds appropriated to it for the care and treatment of such persons. The Act under discussion specifically provides:

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"* * * In the event any indigent person is injured on any public highway in any township of this State, the overseer of the poor in such township shall immediately report such matter to the Department of Public Welfare of the county in which such township is located * * *." (Our emphasis)

In view of the foregoing mandate in relation to the Indiana Public Welfare Act as a whole, it is my opinion that in reporting the matter of an injury on the public highway in his township, if the injured person is an indigent person, the Trustee must immediately report such matter to the department of public welfare of the county, giving such pertinent information as he can reasonably obtain and in so doing, cooperate fully to assist and speed up action by said department of public welfare. The Trustee would do well to fill in as nearly as possible the DPW Form 475 as requested and give such additional information as might be helpful in administering said Act.

To summarize, it is my opinion that:

1. Acts of 1957, Ch. 267, supra, is concerned only with indigent persons who are involved in accidents occurring on highways in the State of Indiana, and who require hospital and medical care.

2. The medical assistance referred to in your hypothetical case appears to be covered by the Acts of 1935, Ch. 116, Sec. 5, supra, and the Acts of 1947, Ch. 300, Sec. 1, as amended, supra.

3. While the suggested forms and procedures recommended in the State Welfare Department Bulletin No. 218 are not formally adopted and promulgated rules or regulations of that Department, they appear to be reasonable and essential in aid to the proper administration of the Act in question. It further appears that the Legislature intended that the county welfare departments expend money appropriated to them for indigent injured persons covered by said Act consistent with, and pursuant to, accurate and necessary information furnished them by reliable sources including the Township Trustees, who, as overseers of the poor, the Legislature apparently regards as being in a position of advantage to obtain and furnish such information.