"(e) All maps required to show the underground workings of any mine, within this state, shall be prepared by a professional engineer or land surveyor, and shall be certified and sealed by such professional engineer or land surveyor."

The above section would be applicable to plats, plans and specifications prepared by an employee of a city or county planning commission and such plats, plans or specifications could not be received for record and could not be approved by any official of the state or any official of the city, town, county, township or school corporation, unless they were prepared by or under the supervision of a registered land surveyor or registered professional engineer, as the case might be.

In summary, if and when the duties of an employee of a planning commission require him to perform any services which fall within the definition of a professional engineer, as above set forth, then before performing such duties he must obtain a registration certificate as a professional engineer or, if his duties require him to do any of the things which are included within the definition of a land surveyor, then before performing such duties he must obtain a certificate as a land surveyor. The same would apply to contractual services.

OFFICIAL OPINION NO. 51

July 30, 1948.

Mr. John D. Pearson,
Insurance Commissioner,
State House,
Indianapolis, Indiana.

Dear Mr. Pearson:

I have your letter requesting an opinion relative to the licensing of insurance agents which outlines the problem as follows:

"A certain insurance company with ten affiliates or connectives known as a group now purposes to merge all ten affiliates into the one parent company, sub-
stituting as it were one company in place of the eleven heretofore grouped.

“When such merger is completed will it be necessary for the individuals, corporations, etc., now licensed for the various members of the group to surrender their licenses and be re-licensed for the surviving company or under the Indiana law, may these agents, etc., of the various affiliates be transferred to the parent company without further action such as application and licensing for such parent or surviving company?

“Your opinion relative to the above matter is respectfully requested.”

It is necessarily inferred from your letter that these agents have all applied and have been duly licensed or re-licensed as agents for their respective companies and have been so certified in accordance with Sections 210, 211 and 212 of the Indiana Insurance Code (Sections 39-4562 et seq. Burns' 1933 R. S.). Such licenses issued will expire annually on January 1.

The agent is licensed for a particular company and his license is restricted to that company. (See Section 211, 212, Indiana Insurance Code—Sections 39-4503, 39-4504, Burns' 1933 R. S.). Normally the dissolution of a company would automatically nullify any agent's license. However, I do not believe that is true where there has been a merger into a surviving company under Indiana law.

It seems that Section 125 of the Insurance Code (Burns' 39-3912) relating to the effects of a merger sufficiently answers your question. Section 125 in part reads as follows:

“When such merger or consolidation has been effected as hereinabove provided:

“(a) The several corporations parties to the agreement of merger or consolidation shall be a single corporation, which shall be:

“(1) In case of a merger, the surviving corporation a party to the agreement of merger into which it has been agreed the other corporations parties to the agreement shall be merged, which surviving corporation shall survive the merger, or

“* * *
“(b) The separate existence of all of the corporations parties to the agreement of merger or consolidation, except the surviving corporation in the case of a merger, shall cease;

“(c) Such single corporation shall have all of the rights, privileges, immunities and powers and shall be subject to all of the duties and liabilities of a corporation organized under the act.

“(d) Such single corporation shall thereupon and thereafter possess all the rights, privileges, immunities, powers and franchises of a public as well as of a private nature of each of the corporations so merged or consolidated; and all property, real, personal and mixed, and all debts due on whatever account, including subscriptions to shares of capital stock, and all other choses in action and all and every other interest of or belonging to or due to each of the corporations so merged or consolidated shall be taken and deemed to be transferred to and vested in such single corporation without further act or deed; and the title to any real estate, or any interest therein, under the laws of this state vested in any of such corporations shall not revert or be in any way impaired by reason of such merger or consolidation.

“(e) Such single corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged or consolidated in the same manner and to the same extent as if such single corporation had itself incurred the same or contracted therefor; and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted to judgment as if such merger or consolidation had not taken place, or such single corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any of such corporations shall be impaired by such merger or consolidation, but such liens shall be limited to the property upon which they were liens immediately prior to the time of such merger or consolidation, unless otherwise provided in the agreement of merger or consolidation.”
It is my opinion that the above quoted section provides ample authority for the insurance department to transfer the duly certified and licensed agents of the affiliated companies to the surviving company without necessitating new applications or relicensing of such agents. It is understood that upon expiration of such licenses the same will have to be renewed and recertified pursuant to the sections of the code referred to above.

OFFICIAL OPINION NO. 52

August 6, 1948.

Alfred W. Snedeker, M.D.,
   Medical Superintendent,
   Richmond State Hospital,
   Richmond, Indiana.

Dear Doctor Snedeker:

I have your letter of June 29, 1948, which except for formal parts, is as follows:

   "I should like you to consider the following hypothetical case and my usual procedure in such matters and render me your opinion. I have a patient in the hospital, who, in my professional opinion, needs an operation immediately. I have no signed permit from the nearest responsible relative, for operative or other extensive medical procedure or treatment. I cannot locate the responsible relative by telephone or telegram. Under these circumstances, I consider the patient as my ward, and sign an operative permit myself."

When a patient is in full possession of his mental faculties and no emergency exists for immediate surgical operation, consent of the patient is a prerequisite to a surgical operation by the physician or surgeon. Absence of the patient’s consent will predicate criminal as well as civil liability for assault and battery.

See: Annotation 139 A.L.R. 1370.