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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

April 30, 2002

Joseph C. Good, Jr., General Counsel
Medical University of South Carolina
P.O. Box 250008
Charleston, South Carolina 29425

**Re: Your Letter of December 21, 2001
Area Health Education Consortium - MUSC**

Dear Mr. Good:

In the above-referenced letter, you have indicated that "[t]he Medical University of South Carolina (MUSC) seeks clarification from [this] office as to its responsibilities for the present Area Health Consortium (AHEC) and its various programs." Specifically, you state that "MUSC would like guidance as to whether it is legally responsible for funds appropriated by the Legislature for the benefit of AHEC which flow through MUSC, the programs and activities of AHEC, and its obligations or responsibilities for the oversight of other AHEC activities in assuring that the organization complies with its stated mission and goals." You have further indicated that there appear to be contradictory provisions in the South Carolina Code of Laws as to who has responsibility and authority over the AHEC programs. Given this, you ask whether "the Medical University of South Carolina, the Dean's Committee on Medical Education or the Commission on Higher Education" has the ultimate authority and responsibility over AHEC.

Funds are appropriated directly to MUSC for the programs of AHEC in that portion of MUSC's budget related to the Consortium of Community Teaching Hospitals. While the funds appropriated are done so through specific line item for each program, there is no indication that the Legislature intended to create a separate or autonomous entity or institution in the Consortium of Community Teaching Hospitals or AHEC. In fact, in your letter of request, you indicate that, "[s]ince its inception, the central AHEC offices have been maintained at the Medical University of South Carolina which provides this organization with unreimbursed housing, staff support, financial accounting, and legal services." Further, "the Vice President for Academic Affairs and Provost of the Medical University of South Carolina, with the concurrence of the Board of Trustees of the Medical University of South Carolina, employs the Executive Director of the present AHEC organization."

Re: [unclear]

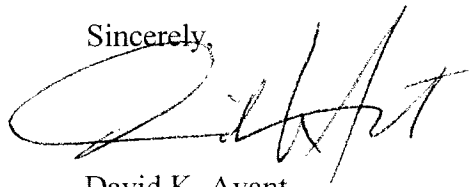
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S.C. Code Ann. §2-7-75 provides in pertinent part that “[a]ll agencies and institutions are directed to expend state appropriated funds in strict accordance with the line item appropriations as authorized by the annual appropriations act except for such transfers of funds as may be approved by the Budget and Control Board under its authority as set forth in the appropriations act or other provisions of law.” As this Office has previously opined, MUSC’s Board of Trustees has “... plenary statutory powers to govern [its] institution...” pursuant to S.C. Code Ann. §§59-123-20 & 60. See OP. ATTY. GEN. Dated October 17, 1983. Accordingly, MUSC’s Board of Trustees would be responsible for ensuring that monies appropriated for the programs of AHEC are expended as designated by the Legislature. Absent any Legislative indication to the contrary, the Board’s plenary powers would give it the ultimate authority to direct AHEC in its various programs and activities and “assu[re] that the organization complies with its stated mission and goals.”

While perhaps confusing, the statutes cited in your letter do not remove AHEC from the control of MUSC’s Board of Trustees. There is no questioning the Board’s authority with respect to the Rural Physician Program (a line item in MUSC’s budget for the Consortium of Community Teaching Hospitals) as S.C. Code Ann. §59-123-125 provides that MUSC is “responsible for the fiscal management of funds to ensure that state policies and guidelines are adhered to.” Also, while Section 59-123-115 provides that “[t]he South Carolina Area Health Education Consortium shall be awarded funding for [certain other programs] based on the appropriate formula, as approved by the Area Health Education Consortium and the Commission on Higher Education,” once the funding is awarded, it is within the power of MUSC’s Board of Trustees to ensure that the programs are run properly. Moreover, this Office has previously opined that the Dean’s Committee on Medical Education created by Section 59-101-190 is in essence an advisory committee which would not work to lessen the “plenary statutory powers” of the Board of Trustees. See OP. ATTY. GEN. Dated October 17, 1983. Accordingly, the Board remains the ultimate authority with respect to the operation of AHEC and its various programs.

In your letter, you also ask several specific questions concerning the operation of certain AHEC programs. Other than the general opinion that MUSC’s Board of Trustees has the ultimate authority and responsibility over AHEC, this Office cannot provide specific advice as to the direction of its programs.

Sincerely,



David K. Avant
Assistant Attorney General

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