

1976 WL 30940 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 23, 1976

\*1 The corporation formerly known as 'The President, Trustees and Faculty of the Medical College' is not required to file the report or pay the tax provided by Chapter 10 of Title 65 as it is a public corporation that performs a public function or purpose.

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### QUESTION

In the corporation 'The Medical College of the State of South Carolina' that was originally chartered in 1832 by Act No. 2580 as 'The President, Trustees and Faculty of the Medical College of the State of South Carolina' required to file the corporate tax returns provided by Chapter 10 of Title 65 of our Code of Laws?

### STATUTES INVOLVED

Sections 22-351, et seq., 65-601, et seq., and the Acts Amending the 1832 Act of extending the charter of the corporation.

### DISCUSSION

The 1832 Act created the corporation and provided authority to the trustees and faculty of the college for the adoption of by-laws for the 'government and regulation of themselves and of the said college, \* \* \*.' They were also granted power ' \* \* \* to confer medical degrees, with license to practice medicine and surgery \* \* \*.' The Act provided for a twenty-one year life for the corporation which was thereafter extended by several other Acts. The charter failed for lack of a renewal, however, was revived in 1899. (Book 'J' at page 15 and in Book 'L' at page 687, Secretary of State.)

In 1913 by Act 126 the General Assembly authorized the acceptance and grant by the State of all the property 'real and personal' of the corporation and further confirmed and extended the corporate charter. The Act also provided for the management of the Medical College, however, it did not provide for a separate corporate existence for the governing body called for in the Act. The business of the college has, as we understand, been conducted under the presumption that it was a public corporation; it being accepted that the charter of the existing corporation was amended to provide for the same.

We concur in this presumption and conclusion and the same has apparently been recognized and accepted by the Supreme Court.

'The latter (The Medical College of the State of South Carolina) is a corporate entity created by the General Assembly for the maintenance of a State owned Medical College, the management and control thereof being vested in a board of trustees, all of which will more fully appear by reference to Sections 5794 to 5799, both inclusive, Code 1942. \* \* \*.' [Smith v. Robertson](#), 210 S. C. 99, 41 S. E. 2d 631.

The sections there referred to are now codified as Section 22-251, et seq., and there exists but one corporate entity. The Act refers to the Medical College and the only medical college to which such reference could have been made was that operated by the corporation. The 1913 Act by reference, if not by express language, amended the charter of the existing corporation so that it is now a public corporation.

CONCLUSION

\*2 The corporation formerly known as ‘The President, Trustees and Faculty of the Medical College’ is not required to file the report or pay the tax provided by Chapter 10 of Title 65 as it is a public corporation that performs a public function or purpose.

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