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349th Judicial District of Texas

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OCT 29 1999

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RQ-0134-JC

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October 26, 1999

State of Texas  
Office of the Attorney General  
ATTN: Opinions  
P. O. Box 12548  
Austin, Texas 78711-2548

FILE # ML-41078-99  
I.D. # 41078

Re: Applicability of Title 5, Chapter 110 of the Civil Practices and Remedies Code (Senate Bill 138)

Dear Sir or Madam:

I have been approached by a local non-profit, religious organization, the Therapon Institute, Inc., who plans to do business in Houston County, Texas as Therapon University for the purpose of educating, training, certifying and awarding degrees and credentials to ministers, missionaries, counselors and non-professional adherents to their religious belief system. The Therapon Institute, Inc. has applied for and received an Assumed Name Certificate from the Office of the Secretary of State, Charter Number 01176655-01, to do business as Therapon University.

Since it is a "sincere religious belief" which motivates the Therapon Institute, Inc. in this endeavor, the board of directors maintain Title 5, Chapter 110 of the Civil Practices and Remedies Code applies to their endeavors and prevents them from being restricted by Subchapter G, Chapter 61 of the Education Code. Strict interpretation of Title 5, Chapter 110 of the Civil Practices and Remedies Code appears to provide the Therapon Institute, Inc. and other similar organizations a freedom of religious expression that has been restricted by Subchapter G, Chapter 61 of the Education Code as their plan of study has no curriculum interest outside of the Christian Bible which shall serve as the only textbook.

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I require an opinion from your office resolving the primary question: "Does Title 5, Chapter 110 of the Civil Practices and Remedies Code enable qualifying organizations to provide a non-academic degree curricula in Biblical Counseling and Biblical Studies, restricted to the sole purpose of ministerial and religious training, and bestow degrees upon those participants who satisfactorily complete their course of study?" I am providing your office with a copy of Title 5, Chapter 110 of the Civil Practices and Remedies Code (Senate Bill 138) for your reference.

The answer to this question appears to be "yes", but also appears to be in direct conflict with Subchapter G, Chapter 61 of the Education Code. Which statute will prevail?

If you require further information, please do not hesitate to contact this office.

Sincerely,



CINDY MARIA GARNER,  
DISTRICT ATTORNEY

CMG/vw  
Enclosures

cc: Rev. Paul Carlin  
P. O. Box 1168  
Crockett, Texas 75835