

# Risk Management: Conscious *Ahimsâ*

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## Abstract

*The popularity and pervasiveness of Yoga has brought with it increased injuries and subsequent legal interventions. This article reviews the concepts of risk management and how they might be used in a Yoga environment. Beginning from an intention of “conscious ahimsâ,” the review is followed by case examples of documented practices from the author’s experience as an expert legal witness. The final portion of the article offers suggested remedies for these cases and provides an action list of practices to empower readers to weave their practice of ahimsâ throughout the fabric of their service to others.*

## Introduction

*Do you promise to tell the truth, the whole truth, and nothing but the truth? “I do.” How did this happen? Why won’t she make eye contact with me? This feels so dreamlike . . . Okay, keep breathing. “White Plains, New York.” Why do they want to know where I was born? What will he ask next? . . . My attorney told me to keep my answers short and to the point, but is that the “truth”? “Thomas College for two years, then transferred to State.” Does it matter that I transferred schools . . . why did they ask that . . . ?*

The yoga of a court-ordered deposition—not what any Yoga teacher envisions when he or she begins, but unfortunately this scene is taking place across the United States. The growing popularity of and participa-

tion in Yoga brings with it the increased possibility of injuries and accidents in a Yoga setting. Aware of these odds, how does a Yoga teacher respond to prevent the violence of a litigious process.

The term “risk management,” borrowed from the medical community, is the science of protecting *both* the consumer and provider from harm. While risk management offers many appropriate guidelines and procedures, the term also carries a fear-based, legalistic connotation. As Yoga teachers, “conscious *ahimsâ*,” as an alternative term, offers a fresh and appropriate spirit of motivation for consideration. This article will maintain this intention while introducing and reviewing the basic principles of risk management. The review is followed by case examples of documented practices from the author’s experience as an expert legal witness. The final portion of the article offers suggested remedies for these cases and provides an action list of practices to empower readers to weave their practice of *ahimsâ* throughout the fabric of their service to others.

## Overview and Background

The practice of conscious *ahimsâ* is rooted in the *yamas* of every teacher’s personal practice. Conscious *ahimsâ* can be summed up in a single word: “awareness.” What teachers and students are not aware of, they cannot control. Such non-harming requires the ongoing development of awareness of the effects of one’s actions and inactions. Awareness of practices and processes that

can result in harm requires careful and regular critical reflection by a teacher. That reflection should ask questions such as: Am I being present to my student(s) in each teaching setting, or am I stretched too thin? Am I serving my students' needs or my own? Is there adequate communication between teachers in our studio? Are class sizes appropriately matched to teacher experience and student skill levels? Such honest and probing introspection is key to deepening our practice of *ahimsâ* and increasing consciousness of actions that are known to increase risk of harm to students or ourselves. The pressures of long days of teaching, coordinating teachers' schedules, managing difficult clients, and sustaining budget demands give us call to regularly return to these questions.

What are the factors that have brought about the need for this review? Dismissing the phenomenon as the result of just a greedy, litigious society promotes a dangerous lacuna, or blind spot, in our awareness as a Yoga community. Table 1 contains a partial list of factors for

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consideration of what, besides opportunistic attorneys and students, is contributing to the violence of litigation in response to some Yoga practices. While not exhaustive, careful reflection on these factors may generate new awareness of how we as individual teachers, and more importantly,

we as a community of teachers, have created a system of practice within our larger cultural system. These factors have an exponential impact when applied to the more at-risk population of the teacher or school that offers Yoga therapy.

The final factor is the most difficult, asking, "*Do I dismiss my concerns about litigation by holding myself 'above' such matters?*" Clearly the adoption of an insular attitude of *dismissal* because none of those factors are present in our personal situation falls short of a yogic view of *ahimsâ*. A harming practice of Yoga down the street impacts all of Yoga by discrediting Yoga's name, fostering inaccurate stereotypes of Yoga, and generating increased liability costs with eventual calls for regulation that will

*Table 1: Factors Contributing to Harmful Yoga Practice*

<b>Factor</b>	<b>Impact</b>
Increasing number of students and teachers.	Statistical increase in number of incidents.
Lack of standards of practice and absence of regulation of Yoga and Yoga therapy.	Absence of quality control and self-regulating mechanisms/censure.
Economic pressures of competition and costs of living.	Tendency to favor efficiency and volume to generate sufficient livelihood.
Increased public awareness of health benefits of Yoga.	More at-risk or medically fragile individuals seeking instruction.
Adoption of "corporate mentality" of management by both studios and institutions (i.e., hospitals, clinics, health clubs, etc.)	Bottom-line decisions emphasizing maximum class size, minimal and lowest priced instruction, and high instructor turnover.
Progression from simple, small practices to larger, more complex operations.	Lack of systems management controls for quality oversight, safety programming, and organizational communication/feedback.
Adoption of teaching methods that contrast with the dominant culture.	Misinterpretation of intent or responsibility of practice leading to complaints.
The human tendency to project or repress acknowledgment of personal capacity or limits of competence.	Denial of limitations and taking too much or too complex a teaching opportunity and causing harm by incompetence.

affect all teachers. How do we address this somewhat daunting list of challenges that reflects the current state of Yoga? The adoption of conscious *ahimsâ* will not directly address all of those factors, but it is a powerful and effective action in stemming the rising tide of harm produced by Yoga. The following case examples with proposed remedies are a prelude to an action-oriented list of practices to foster a non-harming environment.

## **A harming practice of Yoga down the street impacts all of Yoga by discrediting Yoga's name.**

### **Case Examples**

The types of injuries and complaints arising from inappropriate Yoga instruction are quite disturbing. Anecdotal evidence of the rising number of musculoskeletal injuries being seen in orthopedic and chiropractic clinics is disheartening. How often have you been introduced to someone and, when the fact that you teach Yoga enters the conversation, you hear some version of, "I (or my spouse, etc.) tried Yoga once, but I (or he/she) hurt my (or his/her) [fill in the body part] and had to quit"? Certainly none of these situations are working to make Yoga more accepted in our culture. Unfortunately that is not the full extent of the problem. When a student with a past spinal surgery is harmed to the extent that the student suffers medically verified, permanent disability and is awarded a substantial out-of-court settlement, the Yoga community needs to take notice and take action.

The following cases are based on actual situations observed by the author or revealed during expert legal testimony. Each case refers back to

one or more factors listed in Table 1. To share the solution-oriented process of conscious *ahimsâ* or risk management, a remedy is proposed for each case.

### ***Inaccurate Program Representation/Qualifications***

At a large studio an instructor in a beginner level Yoga class was teaching advanced inversion postures in the sixth class. The brochure for the facility stated that inversion postures were taught only in Level 2 classes and that students must have completed two full series of the beginner level class before enrolling.

*Remedy:* Review all literature (hard copy and electronic) to insure accuracy of representation to the public. Ensure that teachers on staff are complying with those publications.

### ***Informal Communication System***

Students did not fill out personal history forms and were not screened for risk factors such as surgeries, diseases, or prior injuries. Consequently, there was no system of communication for a regular teacher to inform a substitute teacher of a student's past spinal surgery before the teacher had the student perform a contraindicated *âsana*.

*Remedy:* Create a student screening intake form and have it completed and reviewed before students take a Yoga class. Develop a means of informing students and other teachers of significant risk factors

This remedy does have legal implications. In some opinions it has been advised *not* to seek such information because it increases your liability exposure as a teacher. As instructors this places us in an uncomfortable dilemma: Do you

adopt a "don't ask/don't tell" policy of mutual ignorance to avoid liability but increase risk of harm to students, or do you seek knowledge while accepting greater responsibility for your actions as a teacher in order to avoid harm in your student relationships? Each of us must make this choice with a high level of awareness of all the implications, including honoring the *yama satya*.

### ***Doing Too Much with Too Little***

A single teacher in a beginning level class was instructing *halâsana* to over 20 students without adequate chairs and blankets for this many students.

*Remedy:* Monitor class sizes and equipment requirements, providing teachers with a feedback form for identifying safety risks and equipment needs. On the form have a space to briefly record action taken or remedy provided in response to the request.

### ***Teacher Reimbursement Policies***

A teacher had complained to management for two years about excessive class sizes and yet continued to teach at the facility in order to afford training trips to India. The reimbursement structure allowed for increased revenue for the instructor by paying teachers on a per-student basis. A conflict of interest between personal financial needs and student safety resulted in an at-risk teaching environment.

*Remedy:* Consider per-class fees or hourly wage for teachers. Such remuneration honors the teacher's time and discourages excessive class size. Sit with this one before dismissing it as impractical, as it gets deeply at what we are about in our business structure.

### ***Quality Does Not Just Happen***

A large public facility offered a wide range of Yoga classes with numerous teachers of varied experience levels. The supervisor of instructor responsibilities did not include performance monitoring, customer satisfaction, or background checks.

*Remedy:* In a studio setting with multiple teachers, is there a system or process whereby someone is an advocate for student safety by evaluating competencies while monitoring quality and safety issues? If not, what insures student well-being, and how do you identify at-risk teaching environments as the owner? See the action lists in Tables 2 and 3.

### ***Fading Memories and Identifying Risks***

A Yoga teacher was employed by a large facility and responsible for a significant number of students. When the students would report the occasional injury or accident, the teacher was attentive and thoughtful in responding, offering advice and appropriate care. When later called into court to answer a formal charge delivered by a student that her care had been inadequate, the teacher was unable to recall the incident that had occurred six months earlier. The teacher had not kept notes of the student's injuries or accidents, nor had they been reported to the management of the facility.

*Remedy:* Create and maintain an incident policy and report form. See the action list in Table 2 for details.

### ***Teaching Method Contrasts with Dominant Cultural Values***

A student complained of fear and pain regarding performing a particular *âsana* in a United States studio. The teaching lineage of that

teacher was characterized by a “disciplined,” authoritarian style in which the teacher was not questioned and did not expect to have to discuss or negotiate participation in the practice. Rather than listening to

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the concerns of the student, the teacher directed the student, who had a post-operative spinal instability, that discomfort and fear were normal and to “move into the pose.”

*Remedy:* In the United States, the dominant perspective is summarized as “informed consent.” That is, the provider has an obligation to provide consumers answers to their questions. There is nothing inherently wrong with an authoritarian style, providing you have informed students of its implications in the class setting and they have acknowledged and consented to participate in such an environment. If you have not, the legal system holds informed consent as the standard of practice.

### ***Failure to Consider Safety Concerns as a Yoga Teacher***

An instructor testified that as a teacher never once had s/he considered or contemplated factors in a Yoga class setting that would affect safety.

*Remedy:* As hard as it is to believe, this is sworn testimony from a certified teacher at a highly regarded school of Yoga, and this instructor is not unique in having this level of lack of awareness over safety. Hence, the call is made for

the adoption of the practice of *conscious ahimsâ* by all teachers and institutions that offer Yoga instruction.

The concluding section below offers action lists to foster a regular and deepening level of participation in our ongoing practice of *ahimsâ*.

### **Action Steps for Practice**

Establishing a cyclical process of deepening awareness of avoiding harm and promoting safety is the foundation of every Yoga practice. Such a process need not be a quagmire of paperwork and bureaucracy. A single, focused afternoon of concentration on applying the action steps in Tables 2 and 3 would significantly deepen the practice of *conscious ahimsâ*, protecting both students and teachers from harm. Teachers always face some risk of harm from a malicious or unsubstantiated claim, and there are a few steps that can protect one from financial and emotional harm in those circumstances.

When initiating the action steps for ongoing students, present the paperwork in the context of *conscious ahimsâ* rather than as a fear-based, legal consideration.

Underlying the action steps is the heart of *conscious ahimsâ*: the quality of relationship and the depth of communication. The awareness that our teaching practice depends on proper preparation and action when accidents or incidents arise is an evolving process to which we must regularly return. Viewing the process as our outward demonstration of *ahimsâ* sets a positive and healing context for such work. Creating and reinforcing our practice around these actions will establish a successful program of caring for our students and ourselves as we work together to transform our world through Yoga.

Table 2: Management-Related Action Steps

<b>X</b>	<b>Studio and Staff Action Steps</b>
	1. Develop a screening intake form and have it completed and reviewed for each student prior to his or her first class.
	2. Develop a waiver of liability form with a statement of responsibility for disclosing limitations and history. The form should be completed and reviewed for each student prior to the first class.
	3. Develop an incident report form and a policy regarding completion of the form for every incident. See <a href="http://www.Yogatherapy.com/incident.doc">http://www.Yogatherapy.com/incident.doc</a> for a sample form.
	4. Implement basic safety instruction for staff, including CPR and first aid.
	5. Develop and implement a policy for managing common complaints (light headedness, dizziness, shortness of breath, loss of consciousness, anxiety attacks, loss of balance, falls, and injuries). Include a requirement for obtaining contact information from each student in case of emergency.
	6. Develop a system for identifying and communicating at-risk students to substitute teachers.
	7. Establish and verify accurate program descriptions and prerequisites for class participation on all printed and electronic media.
	8. Provide sufficient equipment for classes requiring props, etc.
	9. Annually poll teachers regarding <i>ahimsâ</i> concerns, or discuss at in-staff gatherings, and briefly document the discussion with any proposed action steps or changes implemented.
	10. Work closely and immediately with your liability insurance carrier on incidents that require medical care or on incidents in which the student “disappears” without follow-up per your incident policy.
	11. Follow up thoroughly and regularly on all incidents, keeping detailed notes of all communications.

Table 3: Action Steps with Student Participation

<b>X</b>	<b>Student Action Steps</b>
	1. Require class sign-in sheets for every class. (You will not remember who was in attendance two years from now when you are seeking witnesses.)
	2. Post a list of the most common <i>âsanas</i> and their contraindications. Include the list in every student’s welcome packet of information. In classes with open enrollment, make it a policy to have instructors declare contraindications accordingly.
	3. Twice a year survey membership on safety concerns and solicit suggestions for improving <i>ahimsâ</i> consciousness. It is amazing what they see that we cannot see.
	4. If your lineage utilizes the disciplined, authoritarian model, communicate teaching style and rationale, obtaining a signed consent.
	5. Get audible, verbal permission for all manual corrections. “May I show you . . .”
	6. When in doubt, never guess. Seek direction and confirmation from qualified resources. Tell the student, “I don’t know, but I will find out.” This is the truth and what the student will remember best.

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