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COMMENTS REGARDING *THE LEGAL RISK OF UNREGULATED YOGA THERAPY* ARTICLE

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General Comment: Yoga therapy is already being practiced as a complementary or adjunctive profession, and the general public is already making use of yoga therapy for health promotion, prevention and risk reduction for common lifestyle-related disorders. Even an entity as large and mainstream as the U.S. Department of Veterans Affairs is integrating yoga therapy into the services it offers. Given the current health care landscape, IAYT is responding responsibly and proactively by taking steps to protect the public, the profession and individual practitioners by creating a self-regulatory structure with real substance. It's no longer a matter of *whether* the profession needs to responsibly and proactively regulate itself, but rather a matter of *how soon* and via which organization. There is no organization better positioned to undertake this effort than IAYT; this fact is borne out by IAYT's success so far, including the number of programs that have already applied for and been granted accreditation, and the widespread support by yoga therapy professionals for IAYT's accreditation and certification initiatives.

Assertion: *Without an appropriately defined scope of practice and necessary state authorizations, the teaching and practice of yoga therapy invites enforcement actions for the unlicensed practice of medicine. (Note: the idea that yoga therapists are vulnerable to being prosecuted for practicing medicine without a license is stated in different ways throughout the article.)*

Response: This February, IAYT published a draft scope of practice to define the practice of yoga therapy, and invited IAYT members to comment on the draft. This scope of practice was written to make it very clear that yoga therapists are not practicing conventional medicine, but rather an extensively defined and well-documented healing art with its own precise set of principles and practices. It is because IAYT understands the potential risks of unregulated practice that it is seeking to be as proactive as possible.

Response: Yoga therapists are already practicing in a number of states without formal state authorization, and this is a good thing for the public. It's simply unrealistic to believe either that yoga therapists will refrain from practicing until there is state authorization/regulation, or that states will unilaterally authorize/regulate yoga therapy unless it is already being used by the public. Given the reality that yoga therapy is being practiced, IAYT has—on behalf of the profession—taken on the task for developing: 1)

educational standards; 2) an accreditation process; 3) a scope of practice; 4) a certification process; and 5) ethics guidelines in order to ensure safe, responsible, consistent, and effective practice guidelines. In doing so, IAYT is being responsible to the public and responsive to the profession.

Response: While it is theoretically possible that yoga therapists could be prosecuted for practicing medicine without a license, it is unlikely that people teaching and practicing yoga therapy will be prosecuted under medical licensure statutes. By developing standards, a scope of practice, etc., for the yoga therapy profession that distinguishes the practice of yoga therapy from the practice of medicine, IAYT is actually lessening the threat of legal action against yoga therapists for practicing medicine without a license.

Assertion: *Without an appropriately defined scope of practice and necessary state authorizations, the teaching and practice of yoga therapy ... threatens the entire yoga community with being swept under a regulatory scheme.*

Response: IAYT sees no logical reason why developing educational standards, a scope of practice, and so on in order to promote the safe, effective and responsible practice of yoga therapy as a complementary, adjunctive, or stand-alone therapy would, in any way, inevitably lead to the regulation of the entire yoga community, because over the course of the last three decades the yoga teacher and yoga therapist communities have diverged and become defined by themselves and others as engaging in different categories of practice.

As we understand it, the Yoga Alliance believes that yoga teacher training schools/programs should be exempt from state vocational education regulation on the grounds that yoga teacher training is primarily avocational in nature and for personal enrichment, and therefore should not be considered vocational training. It should be noted in this context that IAYT carefully distinguishes yoga *therapy* training from yoga *teacher* training, and the IAYT educational standards are explicitly written to apply to professional yoga therapy education. It could happen that some states might seek to regulate schools and programs that train yoga teachers, since education within the context of a school/program is often a state-regulated activity; however, that is an entirely separate issue and one that is beyond the control of IAYT.

Assertion: *Yoga therapy must operate within health care regulatory structures or risk potential state action.*

Response: While it is correct that this risk exists, the regulatory structures are much more likely to be developed because yoga therapy is already being practiced. Since states are unlikely to develop regulatory structures anytime soon for yoga therapy, IAYT is actually providing protection to yoga therapists by developing a self-regulatory

structure, since such a structure promotes responsible practice and provides a basis for the integration of yoga therapy into mainstream healthcare and other organizations.

Assertion: *The goal of a yoga therapist is to address particular health conditions using yogic techniques that combine physical movements and poses, breathing exercises, relaxation and meditation. As yet, no generally accepted definition of yoga therapy has been developed, and no clearly defined scope of practice currently exists.*

Response: By having articulated a definition and scope of practice for yoga therapy, IAYT is supporting the development of a generally accepted definition and scope. These sorts of professional developments do not happen in a vacuum and they take time; it is precisely because IAYT and other sister organizations around the world are taking these steps that yoga therapy is developing into a coherent profession.

It should also be remembered that even in more well-established CAM healthcare fields there can be varying scopes of practice (e.g., DCs, NDs, acupuncturists), depending on how licensing laws are written, and even the scope of MDs varies somewhat from state to state. Again, it is impractical to expect generally accepted definitions, etc., to exist for any healthcare profession, unless the profession itself responsibly undertakes the task of defining itself.

Assertion: *While it is commonly accepted that the practice of yoga can contribute to improved health and wellbeing when performed appropriately, a lack of training in and understanding of human anatomy, physiology and the pathology of particular physical or mental health conditions could cause a well-meaning yoga therapist to do more harm than good. Individuals seeking treatment for health conditions may also make mistaken assumptions about the extent of the qualifications and expertise of yoga therapists, to the individual's detriment. For these reasons, state governments have an interest in investigating and regulating this emerging discipline to protect their citizens from potential harm.*

Response: It is correct that states have an interest in regulating emerging healthcare professions in order to protect the public from poorly trained practitioners. It is a fact, however, that yoga therapy is currently being practiced without any state regulation. Given this reality, IAYT has proactively laid the foundational groundwork for state regulation, should that ever become a necessary or desirable goal, by establishing educational standards, an accreditation process, a scope of practice, and ethical guidelines, and it is in the process of developing a credentialing process for practitioners. These efforts have been for the explicit protection of the health care consumer, to ensure and monitor safe delivery of therapy by professionals and to create the infrastructure of professional self-regulation that not only defines a profession but

invites scrutiny by regulators who can then appreciate the extensive training and integrity of yoga therapy professionals.

Assertion: *There are state legal cases that show that professional sanctions could, in certain cases, extend beyond the unlicensed yoga therapist to reach other licensed professionals. Therefore, not only could the yoga therapist be found to have violated the state's unauthorized practice statute(s), but a licensed professional who refers a patient to the yoga therapist could potentially be found to have aided and abetted the unauthorized practice.*

Response: Any health professional who engages in substandard practice is liable to legal action, and this is not unique to unlicensed professions. In other cases, conventional medicine or other established fields might be interested in limiting competition. If yoga therapy is to grow and eventually become a mainstream profession, it cannot entirely eliminate risk. However, IAYT's proactive efforts to improve the education and training of yoga therapists through accreditation, certification, scope of practice and the development of ethical guidelines, are more likely to lessen these risks than to increase them. IAYT's educational guidelines for yoga therapists have been developed to create a high standard of practice and to encourage collaboration with other health professionals, in an explicit effort to deliver optimal care and protect both health care consumers and professionals.

Assertion: *There are certain states that permit unlicensed individuals to provide services without risk of prosecution under licensure statutes so long as certain criteria are met (i.e., states with what is referred to as "health freedom" laws). Apart from these types of laws, states typically regulate healthcare professions through (i) "registration" (which involves providing identifying information and a designated area of practice to a state agency and may require reporting of the professional's education and training, but does not set minimum requirements), "title licensure" (which requires satisfaction of minimum education and training standards before using a professional title in that state; typically, the applicant must graduate from an accredited institution and pay a licensure fee to a designated state agency), or (iii) "mandatory licensure" (which requires the attainment of a license prior to providing designated services, with eligibility for licensure dependent upon such things as graduation from an accredited program, certification by a national organization, completion of specified education and training, and/or passing an exam, etc.) Unless yoga therapy is sufficiently defined as distinct from the practice of or instruction in yoga techniques, however, the entire yoga community could be subjected to state regulatory schemes aimed at yoga therapy.*

Current efforts at defining yoga therapy have been insufficient to distinguish the profession from the practice of yoga and have resulted in misunderstandings even among its practitioners and the communities which they serve. Requiring yoga

therapists to narrow their scopes of practice to particular conditions, therapeutic focus, or areas of the body may help to ensure that the yoga therapist is sufficiently trained, knowledgeable and capable of providing safe and effective treatment.

Response: In all of its efforts to develop a self-regulatory structure for yoga therapy, IAYT has been careful to differentiate the profession of yoga therapy from the yoga teacher professional category. IAYT has not seen any evidence that its initiative to self-regulate yoga therapy in any way poses a risk of the entire yoga community being subjected to state regulatory schemes. Nor is there any logical reason to reach this conclusion. Nonetheless, IAYT entirely agrees that it is essential for yoga therapy to be sufficiently defined as distinct from the practice of or instruction in yoga techniques. The yoga therapy definition, scope of practice and educational standards are all intended to distinguish yoga therapy from the practice of or instruction in yoga techniques, and have been developed by seasoned professionals in the field over the course of many years through a consensus process. The yoga therapy definition, scope of practice and educational standards have all been published and made available to the public for feedback. IAYT welcomes any feedback from organizations and individuals as to how to do this better, which can be submitted to director@IAYT.org.

IAYT's self-regulatory initiative and framework are still relatively young. The principles in place are not static and will remain open for consideration as the profession and the health care landscape continues to develop. IAYT involved recognized experts in the field in developing the educational and other requirements and drew upon the experiences of self-regulation in other professional fields and countries. We remain open to dialogue with other professions and to a continual process of reflection that will inform the self-regulatory structure. We do not see ourselves as working at cross-purposes to the yoga practitioner and teacher community. We welcome a close partnership with the goal of strengthening public awareness and acceptance of all that we offer. For many yoga practitioners and teachers, developing a yoga therapy practice is seen as a useful enhancement to their careers. For this reason alone, working together is important.

Assertion: *Governmental regulation brings with it many onerous requirements such as licensure fees, standardized competencies, continuing education requirements, threat of disciplinary action, etc. Regulated professionals thus have a higher cost of practice than unregulated practitioners.*

Response: IAYT is not actively promoting state licensure or any other type of government regulation. We would likely only pursue these measures if we received a clear signal from the yoga therapist community that seeking regulation was a widespread aspiration. We see health freedom laws as potentially an excellent alternative to licensure, as they carve out a legal framework for practice without

incurring an extensive cost to the profession. We trust in taking an evolutionary approach to developing the yoga therapy profession, and believe that a well-formulated self-regulatory process that has real substance and integrity will in the long run have a beneficial impact on the public and the yoga therapy profession, and will not threaten—and may even potentially benefit—yoga practitioners and teachers.

Assertion: *For most yoga teachers, government regulation should be unnecessary. Yoga therapists therefore should be cautious about the claims they make with respect to their practice and inform themselves of the unauthorized practice laws in their state. Yoga therapists should also consider defining a narrow scope of practice and pursuing a state regulatory path for their discipline. In pursuing that path, yoga therapy should be careful to clearly distinguish itself from the practice of yoga.*

Response: IAYT has not and does not advocate for the regulation of yoga teacher training or yoga teaching. In contrast, we will continue to engage in the practical details of developing a responsible self-regulatory process for yoga therapy, including defining yoga therapy so that the differences between yoga therapy and the practice and teaching of yoga are clear and distinct for practitioners, professionals and the general public.