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Quality of Life/Ethics Track – Session 7

How to Disagree Without Being Disagreeable

Presented By:
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About the Presenter...

Brad D'Orazio is founder of Marriage & Family Solutions, LLC an outpatient mental health clinic with offices in Fitchburg and Onalaska Wisconsin. Brad is a licensed marriage and family therapist and a lawyer. When not practicing therapy or law, Brad enjoys spending time with his family and coaching high school baseball.

How to Disagree Without Being Disagreeable

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In nearly every area of life we are presented with times when we disagree with others. Disagreements can happen in personal relationships, family relationships, and professional relationships as well. By its very nature, our adversarial legal system is set up for disagreements amongst lawyers. This presentation examines theories behind disagreements and how lawyers can be respectful towards one another while engaging in legal discourse while still zealously representing the best interests of their clients.

Disagreements can occur amongst all types of people. When engaging in a discussion with another lawyer, we are engaging with a peer. Peer disagreement occurs when those with shared evidence and equal cognitive abilities disagree. When disagreements amongst peers surface two things can happen to try to resolve the disagreement. First, a person must consider if they need to adjust how strongly they believe in their opinion. Secondly, they can reevaluate the evidence that is helping them form their opinion (Priest, 2016). In an example where A and B watch a horse race; A has great vision, a clear line of sight to the finish line, and believes they have identified the winner of the race. However, B disagrees on which horse is the winner. A considers B an perceptual peer, and therefore has good reason to pause, lower belief credence, and reconsider. In this perceptual disagreement it is argued that peers who disagree ought to give each other's opinion equal epistemic weight.

In situations that are not as clear as determining the winner of a horse race, such as disagreements about the law, what can be done? Alexander Houghton believes that there are two options for responding to legal disagreement: Legal Steadfastness, the view that legal peer

disagreement sometimes does not motivate belief revision; and Legal Conciliationism the view that legal peer disagreement always motivates belief revision (Houghton, 2024). Legal Steadfastness requires that sometimes we do not revise our disagreement about our beliefs about the law. Legal Conciliationism is the belief that one should always respond to disagreement about the law by revising our beliefs. Belief revision does not always mean abandoning one's belief, but rather that one can revise the confidence of their belief while maintaining their belief. Being open to another perspective does not have to be personal or feel defeating. Whether engaging in Legal Steadfastness or Legal Conciliationaism, maintaining control of our emotions and being respectful to the opposing party should be a priority and may help resolve the situation at hand. Allowing our emotions to get out of control and becoming disrespectful can have the opposite effect.

When lawyers negotiate with one another they do so trying to get the best outcome for their client, which is usually directly adverse to the view of the opposing lawyer and can lead to conflict. Perhaps the best way for a lawyer to feel as though they are being heard is when the opposing lawyer shifts their perspective and agrees with the other lawyer. While this may happen, often the lawyers' interests are usually too far apart for one side to abandon their opinion and completely support the other. For example, one lawyer may believe that the proper sentence for her client is five years probation while the opposing lawyer believes that proper sentence is ten years in jail. In this example, the two lawyers are unlikely to be able to persuade one another to agree with their point of view as they are very far apart on their opinions. How can these lawyers have respectful interactions while zealously representing their clients? People want to be heard and feel as though they are being listened to and their views are being understood. Research suggests that people feel listened to when listeners focus on them, are open and

receptive, and try hard to understand the speaker's views rather than asserting their own views and values. When people do not feel heard they can become frustrated, angry, or unmotivated to resolve the issue (Ren & Schaumberg, 2024). When disagreements escalate into emotional conflicts they can include attacks, insults and dismissive attitudes (Mauersberger & Hess, 2019).

When disagreeing with another person we need to be cognizant of our emotions and how we are portraying those emotions. Emotional awareness is the ability to conceptualize and describe one's own emotions and the emotions of others (Lane & Smith, 2021). Included in emotional awareness is how we are able to regulate our body language, word choice, and tone of voice. Emotional awareness can help keep disagreements and conflicts respectful and logical and not allow them to become emotional and disrespectful. Emotional awareness begins with recognizing different types of emotions. We have primary emotions and secondary emotions. Primary emotions need validation and processing. Secondary emotions need exploration of what is underneath and often require emotion regulation strategies to manage effectively. Examples of primary emotions include; joy, love, fear, pain, and sadness. Examples of secondary emotions include; frustration, anger, guilt, jealousy, disappointment, resentment. When a primary emotion is triggered, often times a secondary emotion can be used as a defense mechanism to protect the vulnerableness of that primary emotion (Guy-Evans, 2023). For example, when a carpenter hits his hand with a hammer he might yell out in anger or frustration. However, the first thing that he actually felt was physical pain from the hammer hitting his hand. Showing pain can make us feel vulnerable so we cover up that vulnerability. During a disagreement one of these vulnerable primary emotions may be triggered and cause a defense mechanism to come out which may turn the interaction into a contentious one. Emotional awareness helps us understand what triggers our vulnerable primary emotions and what we can do if those emotions are triggered. We can

apply these same principles to observe when vulnerable primary emotions of others have been triggered as well. Early recognition is the first step in maintaining a calm and respectful dialogue during a disagreement. The second step is recognizing what is needed when the primary vulnerable emotion has been triggered. This is complicated as different feelings require different responses and vary by individual. When a person is experiencing anxiety they are often feeling out of control and fearful of what may happen next. Providing reassurance or some type of certainty can help ease these feelings and keep them emotionally regulated. An example could be a parent that is very upset and becomes emotionally dysregulated when worried about the placement schedule for their children during a divorce. In this case providing reassurance could be done by helping them understand what the process to determine placement is and past experiences you have had with similar cases. Understanding our own triggers, what we need when we are triggered, and recognizing this in others is all part of improving our emotional awareness.

There are tools that can be used to try to avoid triggering vulnerable emotions or mitigate these emotions when they have been triggered. One such tool is "Active Listening" and is often credited to Dr. Carl Rogers, a founder of the humanistic psychology movement. Since then, there have been many adaptations of active listening applied to many areas inside and outside of psychology including conflict resolution, teaching, tutoring, journalism, consulting, negotiation, sales, business communication, customer service training, leadership and management (Winter, n.d.). Core principles of active listening include; being present, avoid interrupting the speaker, show empathy, ask clarifying questions, patience, repeating back what was heard for accuracy. Using active listening techniques can help both the speaker and listener feel heard and understood which can avoid triggering any vulnerable primary emotions that may lead to

conflict. Another tool that can be used when feeling triggered is grounding techniques. This involves integrating one or more of your senses to keep you in the moment. Examples can be naming things you can see, touching various objects, listening, smelling, or even tasting. Deep or controlled breathing can also be used in order to calm the intense feelings of being emotionally triggered. Being able to work through an emotional trigger and regulate our emotions is key to maintaining a respectful demeanor when disagreeing with another.

In an adversarial system lawyers can still communicate respectfully to one another while disagreeing. Increasing our emotional awareness involves understanding our own emotional triggers and being aware of how others are feeling. With an emphasis on increasing our emotional awareness we can identify vulnerable primary emotions in order to prevent disagreements from rising into emotional conflicts.

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Presented by Brad D'Oraizo, MS, LMFT, JD

HOW TO DISAGREE WITHOUT BEING DISAGREEABLE

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DISAGREEMENTS

Disagreements happen in personal relationships, family relationships, and professional relationships

Our adversarial legal system is set up for disagreements amongst lawyers

Can lawyers be respectful towards one another while engaging in legal discourse, while still zealously representing the best interests of their clients?

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DISAGREEMENTS AMONGST PEERS

LEGAL STEADFASTNESS: THE VIEW THAT LEGAL PEER DISAGREEMENT SOMETIMES DOES NOT MOTIVATE BELIEF REVISION

LEGAL CONCILIATIONISM: THE VIEW THAT LEGAL PEER DISAGREEMENT ALWAYS MOTIVATES BELIEF REVISION

(HOUGHTON, 2024)

> What happens when the two legal views are too far apart to abandon their opinions?

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HOW TO CREATE A RESPECTFUL INTERACTION

People want to feel heard, listened to, and understood…

To do this we can focus on the listener, be open and receptive, and try hard to understand the speaker's views rather than asserting our own views and values.

When people do not feel heard they can become frustrated, angry, or unmotivated to resolve the issue (Ren & Schaumberg, 2024).

When disagreements escalate into emotional conflicts they can include attacks, insults and dismissive attitudes (Mauersberger & Hess, 2019).

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ACTIVE LISTENING

Developed by Dr. Carl Rogers, a founder of the humanistic psychology movement

Used in conflict resolution, teaching, tutoring, journalism, consulting, negotiation, sales, business communication, customer service training, leadership and management

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WHAT IS ACTIVE LISTENING?

- It includes being present, avoid interrupting the speaker, show empathy, ask clarifying questions, patience, repeating back what was heard for accuracy.
- Empathy is important! Meet emotion with emotion, and logic with logic

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COMMON EXAMPLE….

A husband and wife with two children are having a discussion about their children misbehaving. The husband feels guilty as he often travels for work and is not home as much as he would like to be. The wife states, “It is really hard to get the kids to listen when you are gone.” The husband replies, “So this is my fault and you think I’m a bad father?!?!?”

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EMOTIONAL AWARENESS

…IS THE ABILITY TO CONCEPTUALIZE AND DESCRIBE ONE’S OWN EMOTIONS AND THE EMOTIONS OF OTHERS (LANE & SMITH, 2021)

INCLUDED IN EMOTIONAL AWARENESS IS HOW WE ARE ABLE TO REGULATE OUR BODY LANGUAGE, WORD CHOICE, AND TONE OF VOICE.

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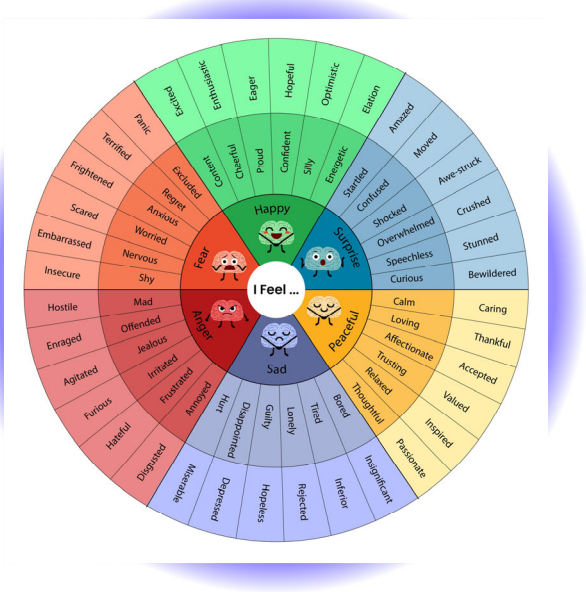
EMOTIONS

Primary Vulnerable Emotions:

1. Fear/Anxiety
2. Pain/Hurt (physical or emotional)
3. Sadness

Secondary Emotions:

Anger, frustration, jealousy, resentful, guilty



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VULNERABLE PRIMARY EMOTIONS NEED VALIDATION AND PROCESSING

SECONDARY EMOTIONS NEED EXPLORATION OF WHICH PRIMARY EMOTION IS UNDERNEATH

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WHAT IS UNDERNEATH?

Jealousy?

Anger?

Frustration?

Resentment?

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STEPS TO EMOTIONAL REGULATION

STEP 1	STEP 2	STEP 3
Recognize potential triggers	Recognize the emotion	Implement a coping mechanism
Pay attention to your body when you feel an emotional trigger	Anxiety, sadness, pain, etc.	Reassurance, certainty, deep breathing…

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SCENARIO……..

A DIVORCING HUSBAND AND WIFE HAVE EACH HIRED AN ATTORNEY AND THE PLACEMENT SCHEDULE FOR THE KIDS HAS BECOME A POINT OF CONTENTION. THE INTERACTIONS BETWEEN THE HUSBAND AND WIFE USUALLY END IN A HEATED ARGUMENT. TODAY THE TWO SIDES ARE MEETING TO DISCUSS A PLACEMENT SCHEDULE FOR THE KIDS……

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STEPS TO REGULATION….

- Step 1: Prior to the meeting, be aware of your own emotions. Be cognizant of any triggers that might come up during the meeting.
  Step 2: Use active listening when the other side is talking. Validating and acknowledging that you have heard what they have said.
  Step 3: Use “I” statements, and avoid blaming statements with “You”
  Step 4: If you can sense you are becoming emotionally dysregulated, implement a coping mechanism
  Step 5: Do not challenge perceptions, acknowledge that you have heard

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Q & A.....

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