

Mediation with High Conflict Personalities

Tennessee Mediation Association

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Presenter: Bill Eddy, LCSW, Esq.

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602-606-7628



COMMON ISSUES

- Rigid and Uncompromising
- Difficulty Accepting and Healing Loss
- Emotions Dominate Thinking
- Inability to Reflect on Own Behavior
- Difficulty Empathizing With Others
- Preoccupied with Blaming Others
- Avoids Responsibility (For Problem or Solution)
- Depends on Others to Solve Problems

IMPACT ON PARENTING

- Depends on Child for Secure Relationship
- Sees Child's Needs as Same as Parent's
- Involves Child in All Disputes
- Lacks Empathy for Child
- Children seen as either Allies or Enemies
- *Wants* Child to Testify Against the Other
- Projects Negative Qualities onto Child

**THEY MAY HAVE
PERSONALITY DISORDERS**

- Enduring Pattern of Behavior
- From Early Childhood/Adolescence
- Extreme Thinking
- Extreme Emotions
- Extreme Behavior
- Interpersonal Dysfunction
- Impulse Control Problems
- Outside of cultural norms

**Core Issues of PDs:
#1: LACK OF SELF-AWARENESS**

People with personality disorders lack awareness of:

- Why they are the way they are
- How they contribute to own problems
- How to change

-- Aaron Beck (1990)

Cognitive Therapy of Personality Disorders

- Why they feel upset right now
- How they affect other people
- What skills they have that *do work*

**Core Issues of PDs:
#2: LACK OF ADAPTATION**

When person loses “flexible adaptation” & takes a “non-reflective stance” in social interactions:

1. Behavior becomes rigidly patterned
2. This causes significant social impairment
3. Which causes significant internal distress
4. This rigid behavior “**evokes**” **responses in others** which “validate” their inflexible beliefs

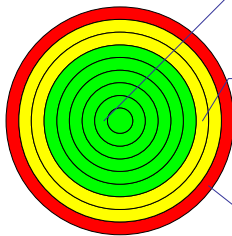
-- Efrain Bleiberg (2001) *Treating Personality Disorders in Children and Adolescents*

Or MALADAPTIVE PERSONALITY “TRAITS”

- Don't Meet Threshold for P. D.
- Less Rigid
- Still Difficult
- More Responsive to Input

- Don't need to Diagnose Disorder vs. Traits
- Just Develop Theory for Handling Dispute
(Like handling adolescents)

Significance of Personality in Legal Disputes



REASONABLE PERSONS: appropriately upset about conflict issues; able to settle and resolve conflicts and divorce

MALADAPTIVE PERSONALITY TRAITS: Appear normal, but inappropriately upset, highly exaggerated, distorted logic; MAY resolve conflicts and divorce with careful management

PERSONALITY DISORDERS: Rigid patterns of behavior; Chronically distressed; chronic Interpersonal dysfunction; MAY be unable to resolve divorce

Personality Disorders are Increasing in Society

National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism (NIAAA) study of over 35,000 people found 21.52% have a PD.

Narcissistic = 6.2% (20-29 age group = 9.4%)

Borderline = 5.9% (20-29 age group = 9.3%)

Paranoid = 4.4% (18-29 age group = 6.8%)

Antisocial = 3.6% (18-29 age group = 6.2%)

Histrionic = 1.8% (18-29 age group = 3.8%)

All have substantial overlap with other personality disorders

----*Journal of Clinical Psychiatry, 7/2004, 4/2008 & 7/2008*

Disclaimer

- This seminar does not train you to diagnose personality disorders.
- It may be harmful to tell someone that you believe that they have a personality disorder.
- Just recognize potential patterns and adapt your approach accordingly.
- Just develop a Private Working Theory

5 High Conflict Personalities

- BORDERLINE: “Love-You, Hate-You” Type
Fear of ABANDONMENT
- NARCISSISTIC: “I’m Very Superior” Type
Fear of INFERIORITY
- ANTISOCIAL: “Con Artist” Type
Fear of Being DOMINATED
- HISTRIONIC: “Always Dramatic” Type
Fear of Being IGNORED
- PARANOID: “I’ll Always Mistrust You” Type
Fear of Being EXPLOITED

Borderline “Love-You, Hate You” Types

- Fear of abandonment: clinging & manipulation
- Seeks revenge and vindication
- Dramatic mood swings
- Sudden and intense anger, out of proportion
- Impulsive, risk-taking, self-destructive behaviors

**Specific tips for
“Love-You, Hate You” Types**

Listen with empathy. Stay calm and matter-of-fact when they get angry (and they will).

Keep an arms-length relationship: not too rejecting and not too close

Have clear boundaries—when you’re available and when you’re not, etc. Be consistent and predictable.

**Narcissistic
“I’m Very Superior” Types**

Fear of being inferior or powerless

Believes in a very superior self-image

Absorbed in self, own needs, own viewpoint

Feels entitled to special treatment

Lacks empathy for others

**Specific tips for
“I’m Very Superior” Types**

Be respectful and resist insulting them (even though you will be tempted because of their arrogance and insensitivity to others).

Resist their efforts to receive special treatment. Reassure them they are important, but that you have to follow the rules and policies.

Praise them for some positive efforts/skills.

**Histrionic
“Always Dramatic” Types**

- Fears being ignored and left out
- Drive to be center of attention
- Constantly dramatic and theatrical
- Exaggerates and may make up stories
- Difficulty focusing on tasks or making decisions

**Specific tips for
“Always Dramatic” Types**

- Don't get hooked by their stories. You can always interrupt the drama by moving on to another important tasks.
- Plan to spend more time getting ordinary work done with them.
- Emphasize how they can help themselves. Give them a sense of empowerment.

**Antisocial
“Con Artist” Types**

- Fear of being dominated
- Drive to dominate others in weaker positions
- Disregard for social rules and laws
- Constant lying and deception, even when easily caught (they don't keep track of lies)
- Lack of remorse; Some enjoy hurting people

Specific tips for “Con Artist” Types

Avoid trusting people who say “trust me” a lot. Maintain a healthy skepticism. Ask for documentation.

Pay attention to your gut feelings—they often are the first to tell you to be wary.

Sometimes they are dangerous. Don’t accept being bullied—get assistance.

Paranoid

“I’ll Always Mistrust You” Types

Fear of being exploited

Endless doubts about friends, professionals, etc.

Misinterprets ordinary events or comments as demeaning or threatening

Bears long-term grudges

Misperceives others as attacking his/her character, so “counter-attacks” first

Specific tips for “I’ll Always Mistrust You” Types

Be as non-threatening as possible. Be reassuring, but don’t expect them to trust you.

Don’t push them to open up about things. Respect their caution and desire to only reveal what they have to.

Explain that policies require you to do certain things (so it feels less personal).

Dependent “Co-Dependent” (Not HCP, but partners with HCPs)

Fears being alone or helpless

Hard to make decisions, express disagreement

Seeks constant nurturance and reassurance

Has many skills, but doubts own abilities

Often seeks intense relationships with strong personalities (HCPs)

Specific tips for “Co-Dependent” Types

Don't “hammer out agreements” with them.
Encourage them to think and be certain,
otherwise they will resist and undermine.

Encourage them to use their own skills and
believe in their own skills (and they usually
have a lot of skills, they just don't realize it)

Resist the urge to fix everything for them.
Make them participate in the solutions.

The HCP Couple

HCPs are attracted to other HCPs. They like the
emotional intensity and child-like traits, but then
break up with intensity (and act child-like).

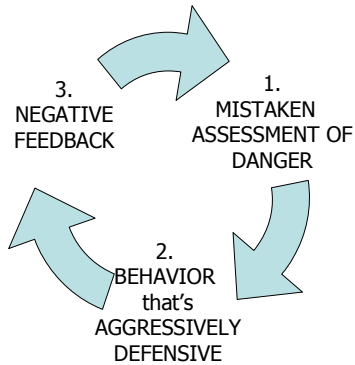
Many HCPs find Co-Dependents, often who were
abused growing up and expect to be treated
badly.

You can easily get these cases backwards: HCPs
always think of themselves as victims and co-
dependents don't speak up to defend selves.

CAUSES

1. **Biological factors**, such as genetic tendencies and temperament at birth.
2. **Early childhood factors**, such as early parenting “attachment” disruptions, child abuse or other trauma before age 5.
3. **Social learning**, such as “invalidating environments”: being ignored for positive behaviors and getting more attention for mood swings and extreme emotions; family and community tolerance of bad behavior; role models w personality disorders.
4. **Larger Culture**: Attention and rewards for Drama, Mood Swings, Narcissism & Violence

The Cycle of High Conflict Thinking



The 3-Step Cycle of High Conflict Thinking

1. **Mistaken Assessment of Danger**
HCP feels internal distress, but it *feels* like external danger
(Being Abandoned, Treated Inferior, Ignored, Dominated, etc.)
2. **Behavior that's *Aggressively* Defensive**
HCP attacks *perceived* source of danger
3. **Negative Feedback**
HCP gets negative feedback (any feedback *feels* negative to HCPs), which escalates HCP

Mistaken Assessment of Danger (Unconscious Thinking Distortions)

- All-or-Nothing Thinking
- Jumping to Conclusions
 - Emotional Reasoning
 - Personalization
 - Exaggerated Fears
 - Mind-reading

Behavior that's Aggressively Defensive

- Wishful Thinking
- Tunnel Vision
 - "Splitting"
- Projection

Negative Feedback

- HCPs have a life-long history of receiving negative feedback.
- Feedback feels like a personal threat
- Rather than taking in information, person defends against the information
- The stronger the negative feedback, the stronger the fight against the feedback
- Thus, negative feedback may trigger more negative behavior, rather than less

What is Negative Feedback?

- It's Personal: It's about personal qualities, like how you think (sanity, intelligence), personal values (being corrupt or immoral), yourself as a whole person (be ashamed of yourself)
- It has an negative tone: Nonverbal communication is 90% of communication. Your tone of voice can trigger intense and instant resistance to whatever you say next.
- It's focused on the past: Avoid emphasizing past behavior (but acknowledge it to extent required). Put emphasis on desired future behavior.

2 Hemispheres of Brain (Flexible)

- | | |
|--|--|
| • <u>Left Hemisphere</u> | • <u>Right Hemisphere</u> |
| • "Logical Brain" | • "Relationship Brain" |
| • Generally Conscious | • Generally Unconscious |
| • Language | • Observes relationships |
| • Thinks in words | • Thinks in pictures |
| • Planning | • Creativity, Art, Intuition |
| • Examines Details | • Non-verbal Skills |
| • Rational analysis | • Facial recognition & cues |
| • Systematic Solutions | • Gut feelings |
| • Positive Emotions
Calm, contentment, etc. | • Negative Emotions
Hurt, anger, fear, etc. |

Corpus Callosum

- The main wiring between the hemispheres of the brain, that aid in the flow of information back and forth. More flow is better.
- It's damaged or smaller in children repeatedly exposed to abuse, as well as in some adults with personality disorders
- Some people get stuck in the upset emotions of the right hemisphere and can't access their left hemisphere to help resolve negative emotions

“The Issue’s Not the Issue”

- In high-conflict cases, the issue is not the issue. The high-conflict personality is the issue, with distorted perceptions and expectations.
- For many people with high-conflict personalities, they are stuck in their negative emotions (R.B.) and can’t easily access their problem-solving skills (L.B.)
- To handle them, you need to learn to communicate with the Right Brain

Talking to the Right Brain

- Tone of voice and body language is amazingly important: Calm, confident, firm
- Avoid personal attacks: these escalate the defensiveness of HCPs and bad behavior
- Avoid threats: these escalate the HCP
- Avoid logical arguments in times of stress
- Don't say they have a personality disorder
- Avoid giving Negative Feedback

HCPs Seek Advocates

- Because of weak problem-solving skills and inability to adapt:
- Seek Family, Friends, Professionals to help
- They often become “Negative Advocates”
 - For HCP’s extreme thinking
 - For HCP’s extreme emotions
 - For HCP’s extreme behaviors

NEGATIVE ADVOCATES

- Wanting to help is often driving force
- Believe cognitive distortions of upset HCP
- Misled by BP/NP's charm, hurt, fear, anger
(Their brains get emotionally hooked)
- Advocate against perceived enemies
- Protect BP/NP from natural consequences
- Escalate conflicts inadvertently
- May also have high conflict personality

4 Key Issues in Managing HCPs

1. BONDING
2. STRUCTURE
3. REALITY TESTING
4. CONSEQUENCES

10 Skills for Managing HCPs

1. Lowering Your Expectations for Change
2. Listening to Highly-Insistent Emotions
(without getting hooked)
3. Understanding Their Fear-Based Logic
4. Focusing on Tasks
5. Emphasizing their Strengths
6. Reality Testing
7. Using Indirect Confrontations
8. Educating About Consequences
9. Including a Positive Advocate
10. Making Recommendations

1. Lowering Your Expectations For Change

- In the legal professions, we expect to influence people with just our words. Not true with HCPs.
- Life-long personality patterns will not change regardless of one statement by a powerful person, or collection of powerful people, no matter how angry or sensitive you are.
- Change takes a *Program of Behavior Change* (therapy, batterers' groups, drug treatment, etc.)
- HCPs may not change attitudes, but may change their behavior to avoid consequences.

2. Listening to Highly-Insistent Emotions (Without getting hooked)

BONDING is a big issue for HCPs. Pay attention to your relationship. They are seeking a dependent relationship. They are seeking agreement with their thinking. They are not seeking an objective opinion, advice, or neutrality. They seek a secure relationship and intense emotions is how they bond.

Listening (cont'd) Give Them Your E.A.R.

You will be frustrated by their extreme emotional sensitivity and cognitive distortions. Its easy to get "emotionally hooked," and to withhold any positive responses. Its easy to feel a powerful urge to attack or criticize.

Instead, consciously use your E.A.R.:

- EMPATHY
- ATTENTION
- RESPECT

Cautions about E.A.R.

- Avoid believing or agreeing with content.
- Aid volunteering to “fix it” for them (in an effort to calm down their emotions).
- Be honest about empathy and respect (find something you truly believe)
- Keep an arms-length relationship.
- You don’t have to listen forever.
- You don’t have to use words or these words.

3. Understand their Fear-Based Logic

- Be watchful for signs that clients are feeling abandoned or insulted, by you or others. Have empathy for their pain.
- Some are preoccupied with fears of ABANDONMENT: Almost anything you do can “feel” abandoning.
- Others are preoccupied with fears of being SEEN AS INFERIOR. Almost anything can “feel” insulting or demeaning to them.

Logic (Cont’d)

- Put more energy into clarifications, to make sure you understand how they are thinking, and what they heard you say.
- **Don’t argue with their logic** – try to understand it. You won’t talk them out of their fears, but you can empathize with their fears.
- Find ways to reduce their fears in the process of dispute resolution. Reassure that you are not going to make assumptions or quick decisions.

4. Focusing on Tasks

- STRUCTURE is needed. Don't expect to resolve their emotional issues. Emotional distresses dominate these clients, making it hard to think clearly, but they can switch out of these feelings with help.
- They came to you with a problem they honestly want to solve. Therefore, helping them turn overwhelming problems into tasks helps them think, and helps solve the problem.

Tasks (Cont'd)

- Acknowledge the intense feelings,
- Then step away from feelings and focus on **What To Do:**
 - Writing lists
 - Gathering information (records, etc.)
 - Getting consultation, legal advice, etc.
 - Before our next meeting, write down 2 - 3 proposals. Feel free to get someone's assistance with this.

5. Maintain a Healthy Skepticism

- REALITY TESTING is always an issue with HCPs, because of their cognitive distortions. Remain skeptical of the accuracy of their information.
- Let them know that you will never know the full story. It is *possible* the extreme statements they are making about each other true. And *possibly* not true. You won't know, but decisions can be made. Practice saying: "**You might be right!**"

Reality Testing (cont'd)

- Recognize that sometimes people are lying, and that you will never know.
- Emphasize that we can make decisions about the future without knowing all about the past. "We can accept the uncertainties of this and still move forward."
- Balance your comments here. Avoid focusing these comments on one "difficult" party.
- Avoid creating an "invalidating environment."

6. Using Indirect Confrontations

Because their behavior is inappropriate or way out of the norm, you will be tempted to confront them with it. BUT:

- Avoid challenging the person or your relationship.
- Avoid attacking their defenses (resist saying how self-defeating their behavior is, how contradictory their thinking is, how inappropriate their emotions are, etc.).
- Avoid attacking your relationship with them (like telling them they are a difficult client, that you feel insulted by them, or threatening to end it if they proceed this way).

Indirect Confrontations (Cont'd)

- Instead, focus on rules and the perceptions of those external to them and external to your relationship with them, as reasons to act differently in the future.
- "The law requires..." "A judge would likely see this as violating..." "It might appear better if you..." "I understand, but someone else might misconstrue that action..." "Let's be seen as taking the high road..." "Let's choose our battles. This one might backfire on us in the long run."

7. Emphasizing their Strengths

- The weaknesses of HCPs are so obvious, and so troublesome, that we tend to focus on them. But we can't fix their lifetime feelings and behavior as dispute resolvers.
- Therefore, it is more productive to focus on their strengths: This gets their attention off their helplessness, gives them hope, and helps solve the problem.

Strengths (Cont'd)

- Notice their strengths throughout the process. This may take some reframing. ("You've kept a lot of records. You're a great record-keeper." "You're a hard worker.")
- Ask them to use their strengths to help solve the problem. ("Before we meet again, maybe you could write down some ideas to bring in.")

8. Educating About Consequences

- HCPs do not connect realistic CONSEQUENCES to their own ACTIONS, especially fear-based actions.
- They feel like they are in a fight for survival, which blinds them to realities.
- Their life experiences may have taught them different consequences than most.
- They can be educated by a caring person.

Consequences (Cont'd)

- Explore Various Outcomes of Dispute
- Explore Consequences if no Agreement
- Build Consequences into Agreement
- Agreements and Court orders are violated because HCPs feel abandoned or they feel treated as inferior
- Also violated because of loss of ego—losing to ex-spouse is intolerable
- Prepare for breach of agreement/orders

9. Including a Positive Advocate

- Despite all your best efforts, you may be unable to move the HCP enough to resolve the dispute.
- They often have negative advocates reinforcing or driving their disputes.
- Often there is a family member or friend who the HCP relies upon, who is a problem-solver and general advocate.
- They may have an attorney, or therapist who can be a positive advocate.

Advocate (Cont'd)

- Ask the HCP if there is someone they would like to invite to the next meeting as a support person, who would be agreeable with the other party.
- If they bring a Positive Advocate, they can help reassure the HCP and help with creative and sensitive problem-solving.
- If they bring a Negative Advocate, your relationship building and education with them may be the key to resolving the dispute.
- If dispute remains unresolved, include Advocate in discussing the realities of what happens next.

10. RECOMMENDATIONS

- The Goal of the recommendation is to help the parties resolve their own dispute.
- They may not be able to accept the other party's ideas, but they often accept a neutral person in authority.
- If they can tinker with it, then accept it, then they won't need to keep fighting.

Ethical Issues with HCPs

- **Favors**
(Avoid doing the favors they request)
- **Fees**
(Avoid bending on fees and endless free work)
- **Ferocious**
(Avoid giving in to pressure to be too directive)
- **Fearful**
(Avoid acting out of fear, like avoiding calling clients or abruptly terminating the relationship)

COMMON ETHICAL ISSUES with HCPs for Mediators

- Avoiding shifting power to or from HCP; treat as equals, even if appears imbalanced
- Be honest with parties about limits of mediation process, mediator's role, etc.
- Be clear about confidentiality re outside attorneys, family members, phone calls
- Avoid complaining about case to everyone

Issues in Mediation

- Work hard at appearing neutral
- Have clients make all process decisions
- Ask “What do you think about that proposal?” rather than “How do you feel about that?” so don’t open up emotions.
- Prepare for breach of agreements
- Avoid pressing them for agreement; hold back and keep burden on them
- Let them decide if it’s not working

Structuring Sessions & Clients

- More clarifications and control at the start
- Emphasize: Mediation focus is on the future
 - Slipping into past is natural
 - Mediator will bring back to the future
 - Matter-of-fact manner

Teach 2-Step Process:

1. Make proposals: “What’s your proposal.” Repeat
2. Respond with: “Yes,” “No,” or “I’ll Think About It.”

Terminating with HCPs

- Be prepared for the possibility of terminating the relationship prematurely.
- Avoid impulsive terminations - abrupt end triggers all of HCP’s bad endings & potentially uncontrollable emotions and bad behavior (stalking, malpractice suits, etc.)
- Don’t talk client(s) out of firing you
- Suggest your styles are incompatible

10 Tips to Avoid Getting Sued or Hurt by HCPs

1. Avoid unrealistic expectations.
2. Avoid apologizing too much.
3. Avoid bending your own rules.
4. Avoid working harder than your client(s).
5. Avoid directing anger at your client(s).
6. Avoid believing your client(s).
7. Avoid making it personal.
8. Pay attention to your fear.
9. Avoid believing stories re other professionals.
10. Avoid becoming isolated in work w HCPs

Closing Points about HCPs

- HCPs often have personality disorders or traits
- HCPs' behavior is mostly unconscious
- HCPs want relief from their constant distress
- HCPs push professional boundaries out of desperation, not out of intent to be difficult
- Direct confrontation brings resistance and escalation of blame, not insight for HCPs
- Most HCPs have problem-solving skills, which you can access if you calm their emotions
- Many HCPs can be helped

Please direct questions and comments to:

High Conflict Institute

info@highconflictinstitute.com

602-606-7628

www.HighConflictInstitute.com