



Ungovernable and difficult licensees: Improving regulatory impact

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Learning Objective 1

- Difficult or Ungovernable?

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Terms

- Registrant = member, licensee, regulated person
- Regulator = state board, college, regulatory body

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Ungovernable

Repeatedly
appear before
regulators

Multiple
issues

Unwilling

Fail to be
remediated

Persistent
disregard

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Difficult

Attitude

Multiple
issues

Unwilling

Multiple
remediation
attempts

Inconsistent
disregard

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Difficult or Ungovernable?

- A spectrum
 - Difficult at first
 - Ungovernable label doesn't happen immediately
 - Requires repetitive behaviour

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Case Scenario

- 25 years in practice
 - Many complaints about clinical practice and multiple referrals to discipline
 - Challenges authority; conduct worsens
 - Ongoing court appeals
 - Reports regulator to the police
 - Accuses staff, Committees of falsifying information

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Learning Objective 2

- Causes of Ungovernability or Difficulty

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Causes of Difficulty

- Lack of effective communication skills
 - Interrupters (ADD?)
 - Use profanity (poor impulse control)
 - Long-winded (boundaries)
 - Righteous indignation (perfectionism, defensiveness)



Causes of Difficulty

- Lack of effective communication skills
 - Unable to pick battles; overly zealous; stand on principle (Asperger?)
 - Passive aggression / disrespect towards people, processes, system (anger issues)

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Causes of Difficulty

- Mode of communication
 - Face-to-face
 - Phone
 - Virtual (Zoom, Teams, etc.)
 - Email

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The Difficult Registrant

- Their communication style
 - Becomes an obstacle
 - Causes frustration
- May need compassion
- May simply want to be heard

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Causes of Ungovernability

- Difficulty with authority figures (developmental)
- Play by their own rules
- Personality disorder?

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Causes of Ungovernability

- Resistance
 - Say “it” cannot happen to them (due to age, wisdom, experience, arrogance)
 - Lack remorse, insight, perspective-taking
 - Denial, other-blaming, rationalization

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Causes of Ungovernability

- Passive aggression = covert anger
 - Pretending not to understand
 - Engaging in self-defeating behaviors
 - Withdrawing, avoiding involvement in regulatory process

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Learning Objective 3

- Practical Approaches to Dealing with Ungovernable and Difficult Registrants

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Practical Approaches: Investigations

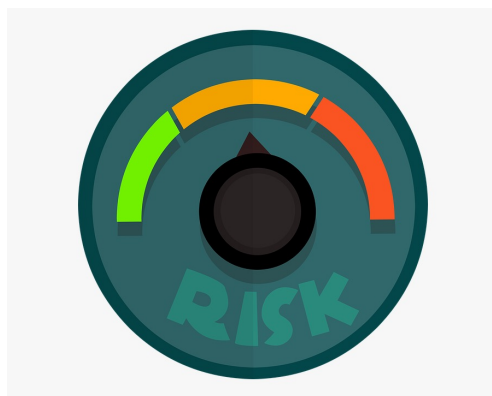


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Practical Approaches: Remediation



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Measuring Success

- As a regulator we must ensure that risks in practice are addressed
- Assessing whether remediation improves practice

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Results to Date

- 88% successful in first remediation ordered
- Remediation leads to changes in practice

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Practical Communication Approaches

- Most will work for both difficult and ungovernable
- Others are better suited to one over the other, depending on details

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Practical Communication Approaches

- Conversations with unhappy people
 - Prepare yourself: your expectations, feelings
 - “Name it to tame it”
 - Do you have prior experience with them?
 - Practice out loud

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Practical Communication Approaches

- Create a safe space
 - Location
 - Time of day / office traffic
 - Private, confidential
 - Professional appearance, background

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Practical Communication Approaches

- Frame the conversation
 - Bottom line: + / neutral / -
 - Tone of voice, language
 - Simply convey information
 - Assure consistent application of rules

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Practical Communication Approaches

- Your goals (= their goals!)
 - Get them to learn how they harmed (or could have harmed) the public = same side of the table
 - Get them to avoid re-offending
 - Keep them in practice w/ safeguards

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Practical Communication Approaches

- Begin your persuasion
 - *Every* licensed professional has the potential to commit a violation
 - Perception matters

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Practical Communication Approaches

- Listen for
 - Resistance
 - Trauma history
 - Counter-transference, re-enactment
 - Cultural issues, misunderstandings

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Practical Communication Approaches

- Breaking down resistance
 - Acknowledge their pain, suffering, etc. w/o condoning conduct
 - Affirm knowledge, skills, accomplishments
 - Connect their inner being to their practice
 - Suggest other perspectives

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Practical Communication Approaches

- Personal connection to the improper conduct
 - Professional risks
 - Personal vulnerabilities
- This awareness *should* lead to insight, change

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Practical Communication Approaches

- Show respect and empathy w/o condoning
 - Do not interrupt them
 - “I can see you are surprised / upset / frustrated / confused...”
 - “Help me understand why you feel this way.”
 - This helps them name and tame their emotions

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Practical Communication Approaches

- Try some compassion for them
 - Could be disarming, increase cooperation and remediation potential
 - Could be difficult to do if conduct is egregious or triggering for you

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Practical Communication Approaches

- Remember they have taken a big hit to a part of their identity
- They feel aggrieved
- They are accustomed to being in charge
- Despite their accomplishments, they may feel embarrassed, angry, defensive

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Practical Communication Approaches

- Power dynamics between registrant and board member, attorney, compliance monitor, other staff
- They may not see you (or may not want to see you) as an authority figure
- Some may have difficulty w/ authority, boundaries
- Limitations on communication over Zoom or phone

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Practical Communication Approaches

- Ignoring the heat in the room does not lower the temperature
- People in the throes of intense emotion are unable to process information

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Practical Communication Approaches

- Intense feelings are inflamed when others do not acknowledge the distress
- Trying to calm someone w/o listening comes across as condescending and disrespectful

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Practical Communication Approaches

- The 8” Rule
- WAIT = Why am I talking?

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Practical Communication Approaches

- When your frustration intensifies, your ability to listen and process what you are hearing decreases.
- Strong emotions are transferable. Be aware of whether you are absorbing the registrant’s agitation and telegraphing it.

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Practical Communication Approaches

- Reflect on whether there is anything else going on to intensify your emotions (in addition to the difficult registrant). This will calm you.
- Allowing the registrant to vent their feelings can de-escalate their intensity.

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Practical Communication Approaches

- Calm the waters by
 - Identifying what you are feeling
 - Using the snow globe technique
 - Recognizing what (emotion) is below the surface (words)

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Practical Communication Approaches

- Calm the waters by
 - Avoiding an authoritarian approach, which may trigger defensiveness or power struggles.

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Practical Communication Approaches

- If the conversation escalates
 - Have a threshold for action: Create your own “uncomfortableness” scale
 - Ex: mildly annoyed < displeased < offended < upset
 - Choose your threshold for ending the call or meeting

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Practical Communication Approaches

- If the conversation escalates
 - Provide boundaries: Mini time-out; go up chain of command
 - Memorize brief scripts so you don't have to search for words in the heat of the moment

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Practical Communication Approaches

- If the registrant gets angry
 - Respond calmly
 - Stay safe (if in person)—leave the room
 - If you are too upset, involve others to resolve the situation

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Practical Communication Approaches

- If call or meeting is ended
 - Immediately document what transpired
 - Include verbatim language
 - Document any actions you committed to
 - Send registrant follow-up email/letter w/ next steps

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Practical Communication Approaches

- Try some compassion for yourself
 - *Not* self-pity, complacency, self-care
 - A healthy way of relating to yourself when faced with difficulties, distress
 - Recognition of our common humanity + mindfulness + self-kindness
 - Kristin Neff: <https://self-compassion.org>

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Learning Objective 4

- More Impactful Regulation

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Impactful Regulation

- Broader investigations
 - May increase the potential for discovering patterns
 - May interrupt patterns
 - May uncover underlying vulnerabilities
 - May prevent development of ungovernability?



Impactful Regulation

- If the education doesn't "take"
 - Wrong course?
 - Wrong approach? (content vs process)
 - Not rigorous enough
 - Inadequate accountability expectations

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Impactful Regulation

- Remedial courses
 - Safe, confidential learning environment
 - Telling of story required
 - Peers model taking responsibility
 - Education plan w/ action steps to apply in practice

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Impactful Regulation

- Extend the regulatory reach: long-term accountability
 - Monitoring / assessor (CVO)
 - Mentoring / supervision
 - Coaching
 - Long-term accountability course

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Impactful Regulation

- Extend the regulatory reach
 - Peer support
 - Decrease isolation
 - Chaperone

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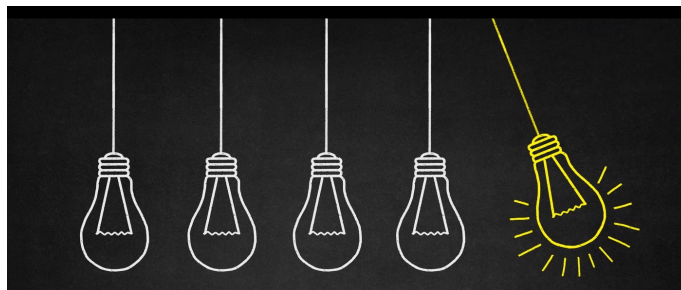
Learning Objective 5

- Tips!

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Tips



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Tips

- Engage the profession you regulate
- Early identification and intervention

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Tips

- Improper professional conduct can be rooted in risks and vulnerabilities.
- Advocate for early education about the regulatory and legal context of professional work.

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Thank You

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