



**ABUSE IN THE FAMILY LECTURE  
SERIES PART 5:  
SPOUSAL ABUSE**

# PRESENTER BIOGRAPHIES

## **Jenna Sachs, LCSW**

Assistant Director of Trauma- Informed Practice at The Safe Center, LI

Jenna Sachs, LCSW, serves as the Assistant Director of Trauma-Informed Practice at The Safe Center, where she offers trainings, consultations, and collaborative opportunities to unify the community through a shared understanding of both trauma and trauma-informed care. Prior to stepping into her current role, Jenna served as a Human Rights Officer and a Senior Clinical Case Manager at a residential treatment center in Massachusetts; there, she provided individual therapy, family therapy, and group therapy to adolescents and their families. When she is not working, Jenna enjoys singing, practicing hot yoga, and spending time with her dog.

## **Robin Quitko, Esq.**

Associate Attorney at Stemple Catterson Lofrumento Carlson Biondo, LLP

Ms. Quitko's practice focuses on matrimonial and family law, including the negotiation and settlement of various issues pertaining to divorce, custody, parental access, support and equitable distribution. Ms. Quitko graduated from Hofstra University School of law in 2012 where she was an Associate Editor of the Hofstra Law Review and a member of the Child Advocacy Clinic.

## **Teresa C. Azzue, Esq.**

Associate Attorney at Schlissel Ostrow Karabatos, PLLC.

Prior to joining Schlissel Ostrow Karabatos, PLLC, Teresa was a staff attorney at The Safe Center, LI where she represented victims of Domestic Violence in Matrimonial, Family Court, and Immigration cases.

Teresa earned her J.D. from Maurice A. Deane School of Law at Hofstra University. She was the recipient of the schools Public Service Award, having completed over 300 hours of pro bono work as a Legal Intern at TSCLI and a Student Attorney in the Disaster Recovery Clinic. Teresa was a member of the Journal of International Business Law and was a founding member of the Family Law Society where she held the position of Secretary.

# GENERAL CONSIDERATIONS

- Clients may not be forthcoming with the abuse.
- Clients may have not only fear of their abuser, but the abuser's family, their community, Immigration, the police.
- Clients may be financially reliant on their abuser.
- Clients may wish to recant their allegations of abuse. This does not mean the abuse did not happen.

**LEGAL STRATEGIES FOR  
REPRESENTING VICTIMS  
OF DOMESTIC VIOLENCE**

# ORDER OF PROTECTION VS. EXCLUSIVE USE AND OCCUPANCY

- Order of Protection Burden of Proof:
  - Preponderance of the Evidence that a Family Offense was committed.
  - Family Offenses are enumerated in the Family Court Act Section 812. Includes: Assault, Stalking, Harassment, Strangulation, Disorderly Conduct, Sexual Abuse. The Family Offense Petition must meet the elements of any of the offenses alleged which can be found in the NY Penal Code.
- Exclusive Use and Occupancy Burden of Proof:
  - Must show that the relief is necessary to protect the safety of persons or property , or where one spouse has voluntarily established an alternate residence and a return would cause domestic strife. *Goldman v. Goldman*, 185 A.D. 3d 1012 (2<sup>nd</sup> Dept. 2020).

# ORDER OF PROTECTION VS. EXCLUSIVE USE AND OCCUPANCY JURISDICTION

- Order of Protection
  - Family Court
  - Supreme Court
  - Criminal Court

- Exclusive Use and Occupancy
  - Supreme Court

# ORDER OF PROTECTION TYPES

- Refrain From
  - Orders the abuser to not commit any family offenses which are already illegal.
    - The Refrain from lists all the family offenses and includes “Refrain from any criminal offense”
  - These are more common when abuse is non-physical.
- Stay Away
  - Can include Stay Away from victim, the house, business, school, place of employment.
  - More common when there is physical violence.

\* In both a Refrain from and a Stay Away Orders of Protection a Judge may order a “carve out” for communication regarding the parties’ children. This Could lead to intimidation under the guise of the children.

# FACTORS TO KEEP IN MIND WHEN DECIDING WHICH ROUTE TO TAKE FOR YOUR CLIENT

## What type of abuse is your client suffering from?

- Depending on the facts surrounding the victim's case, it may be hard to get the Order of Protection or Exclusive Use and Occupancy.
  - Tip: If your client's domestic violence allegations stem from nonphysical violence, attach the wheel as an exhibit. Try to show the Judge that there is a pattern and emotional abuse is still abuse. It can be harder for people to understand that abuse does not need to be physical.
- Will filing make the situation worse for your client? If your client does not receive an Order of Protection or Exclusive Use will it embolden the abuser to continue their behavior or possibly make it worse?

## How will your client be perceived on the stand?

- In order to get a final Order of Protection or Exclusive Use and Occupancy, your client may need to testify.
- As Jenna discussed, victims of domestic violence experience trauma and it can affect them in many ways. I.E.: Bad memory, noncompliance, recantation.
- Your client may not want to testify in front of the abuser.

## Safety

- How emergent is it for the client to get their spouse out of the house?
- Will it be safe for the parties to still be in the home together while a motion for Exclusive Use is being decided?
- Would it be safer for your client to go into a DV shelter?
- Order of Protection is just a piece of paper.
- Exclusive Use and Occupancy just gets the abuser out of the house, may not stop the abuse. (No repercussions if continues behavior outside of house).



# FACTORS TO KEEP IN MIND WHEN DECIDING WHICH ROUTE TO TAKE FOR YOUR CLIENT CONTINUED

## Economic Issues

- Client may not want to do either for fear that their spouse will stop paying for the family expenses.
- Although you may receive an order stating that the abuser must continue paying carrying costs of the marital residence, provide spousal support, and/or child support this does not mean they will.
- Cost of attorney fees. Petition vs. Motion.
- Will the abuser lose their job? This is an issue when it comes to abusers in the law enforcement field. If there is an Order of Protection the abusers' guns will be taken away. The client may not want their abuser to lose their job in fear of losing their financial support.

## Tips:

- If client receives an Order of Protection in Family Court and subsequently files for divorce, try to get a stipulation signed for Exclusive Use and Occupancy. Sometimes the Order of Protection will expire before the divorce is completed. Want to make sure the client is protected.
- If timing is an issue you can go to Family Court to get the Temporary Order of Protection and then seek to have the action consolidated with the Matrimonial Action (if there is one).

# JOINT LEGAL CUSTODY VS. SOLE LEGAL CUSTODY

## **Joint Legal Custody**

- Both parents equally involved in decision making.
- Becoming more popular with Judges.

## **Sole Legal Custody**

- One parent makes all the decisions for the children.

WHY JOINT  
LEGAL  
DOES NOT  
WORK IN  
DOMESTIC  
VIOLENCE  
CASES

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Your client can become re-victimized.

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Abuse of the Court system.

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Abuser may end up being the decision maker due to their intimidation tactics, threats, gas-lighting, etc.



**POSSIBLE  
SOLUTIONS**

# OPEN DISCUSSION/ AUDIENCE QUESTIONS

What non-obvious forms of abuse have you witnessed with clients?

How can a victim's lawyer be affected?

What tools exist to prevent the abused client from being manipulated by abuser during the court process?



# **Trauma-Informed Legal Practice with Survivors of Intimate Partner Violence**

The Nassau County Bar Association  
Wednesday, April 26<sup>th</sup>, 2023



15 Grumman Rd West  
Suite 1000  
Bethpage, NY, 11714

**Providing free and confidential services to survivors across the lifespan of:**

Sexual Assault  
Domestic Violence  
Dating Violence  
Child Abuse  
Human Trafficking



**Services:**

Individual & Group Counseling  
Hospital and Court Advocacy  
Legal Services  
Domestic Violence Shelter  
Rapid Rehousing Services  
Domestic Violence Coordinated Entry System  
Community Education

**Collocated Multidisciplinary Team:**

Assistant District Attorney  
Child Protective Services  
Child Advocacy Services & Forensic Interviewing  
Nassau County Police Department Special Victims Squad

**24-Hour Hotline: (516) 542-0404**



# Content Warning

Content in this presentation contains information and references to domestic violence—including physical abuse, sexual abuse, and psychological abuse, emotional abuse etc. It may be difficult to engage with this content.

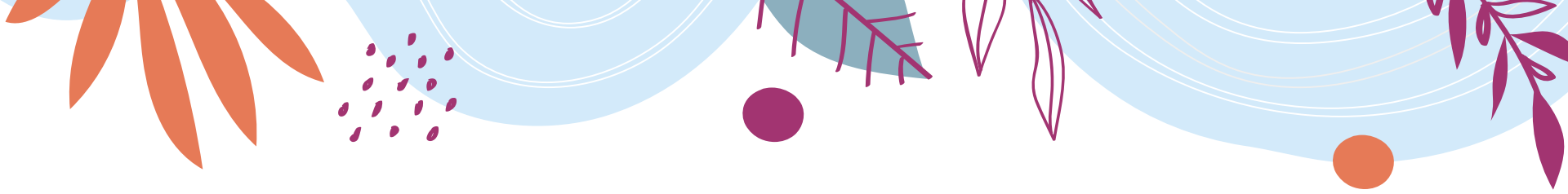
Please use your discretion to care for your well-being during and after this presentation.





# What is Trauma?

Trauma is the response to a deeply distressing or disturbing event (or series of events) that overwhelms and an individual's ability to cope and function in daily life.





# What is Intimate Partner Violence (IPV)?

“Intimate partner violence refers to behaviour within an intimate relationship that causes physical, sexual or psychological harm, including acts of physical aggression, sexual coercion, psychological abuse and controlling behaviours.”<sup>1</sup>

<sup>1</sup> World Health Organization. (2022). *Intimate Partner Violence*. Violence Info. <https://apps.who.int/violence-info/intimate-partner-violence/>



# Types of Intimate Partner Violence

Physical  
Abuse

Sexual Abuse

Emotional  
Abuse

Psychological  
Abuse

Economic  
Abuse

Technological  
Abuse



# Power and Control Wheel

Adapted from The Duluth Model—Power and Control Wheel (Domestic Abuse Intervention Project, n.d. circa 1993)



Intimate partner violence  
is traumatic.

# Effects of Intimate Partner Violence on Client Presentation



Trauma is stored in the mind  
and the body.

The effects of IPV can manifest:

- Physically
- Emotionally
- Psychologically
- Cognitively
- Behaviorally
- Spiritually
- Interpersonally
- Intergenerationally

Trauma can  
impact the areas of  
the brain that  
manage memory.



Clients with IPV histories may  
forget things more easily  
and/or have a difficult time  
recalling the details of specific  
events—particularly as they  
relate to context or sequence.




# Window of Tolerance Framework

HYPERAROUSAL  
"Fight or Flight"


WINDOW OF TOLERANCE  
"Zone of Optimal Arousal"

HYPOAROUSAL  
"Freeze or Appease"

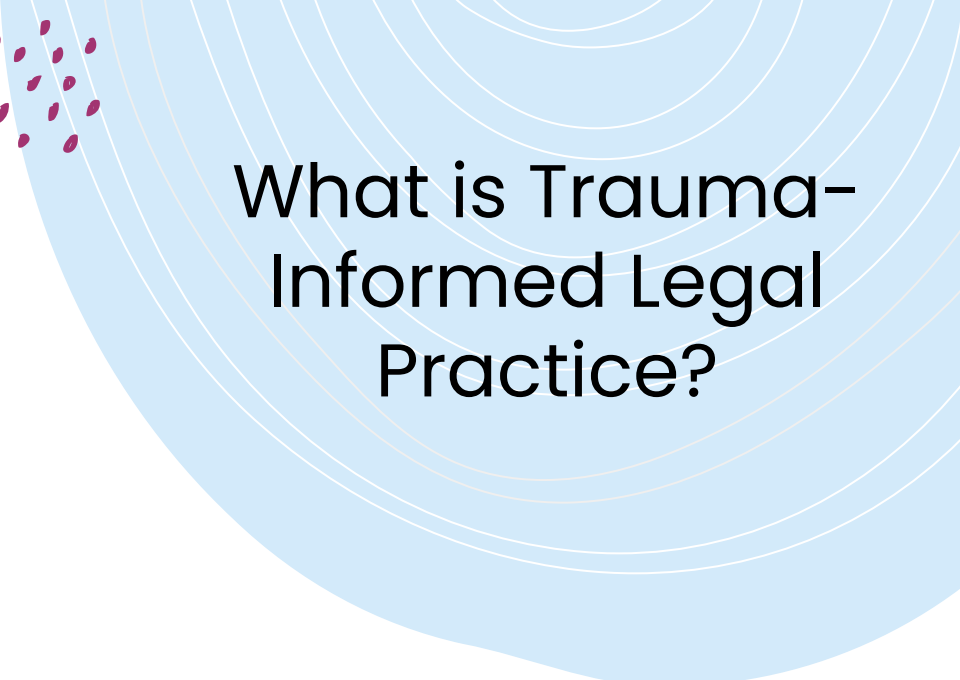


Changes that happen within a person as a result of a traumatic experience are *adaptive*.

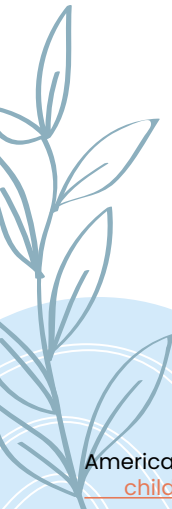




"A trauma-informed legal practice aims to reduce re-traumatization and recognize the role trauma plays in the lawyer-client relationship.



## What is Trauma-Informed Legal Practice?



Integrating trauma-informed practices provides lawyers with the opportunity to increase connections to their clients and improve advocacy."

# Principles of Trauma-Informed Legal Practice

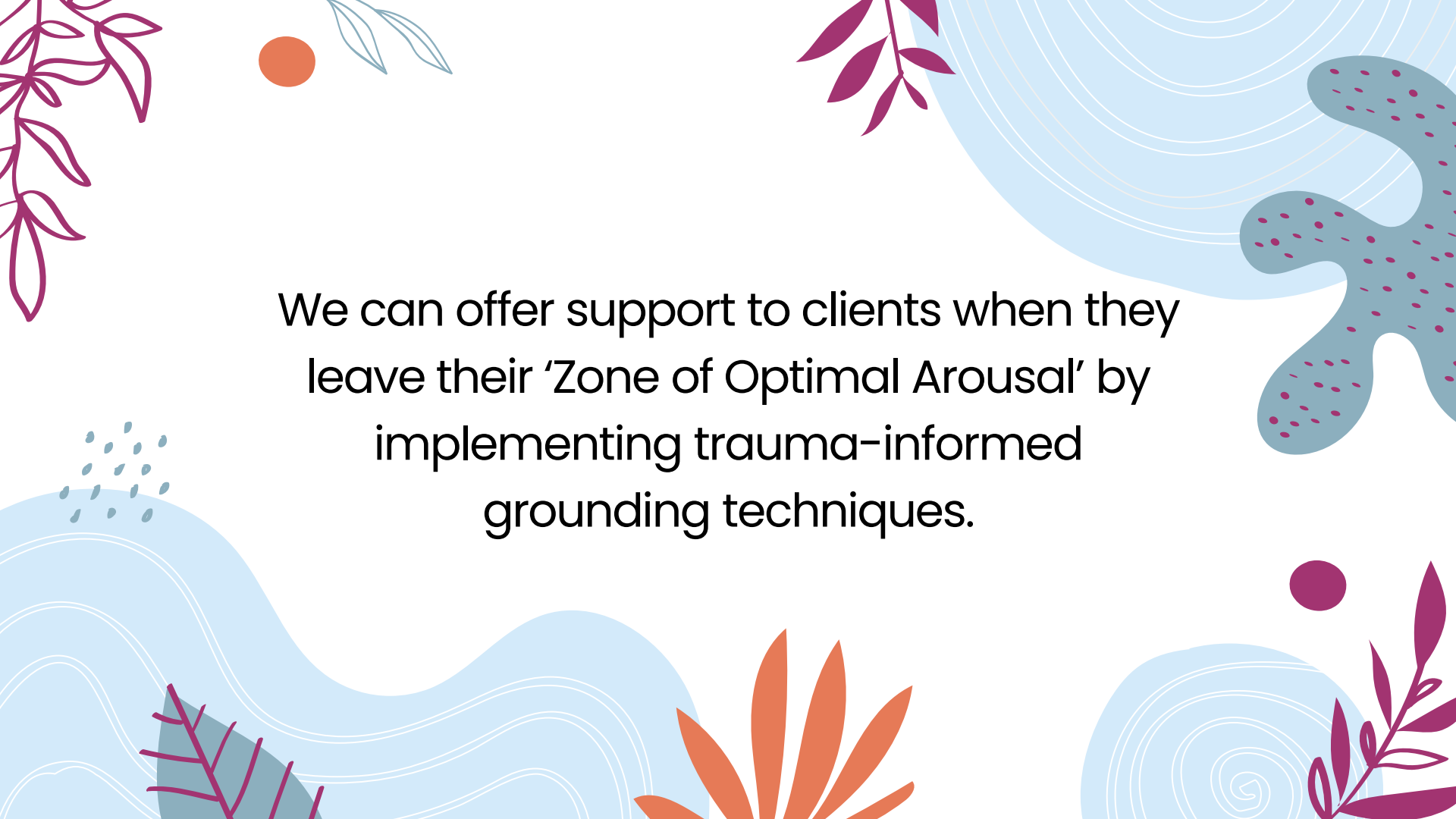
Client-Attorney  
Relationship

Trustworthiness  
& Transparency

Predictability &  
Reliability

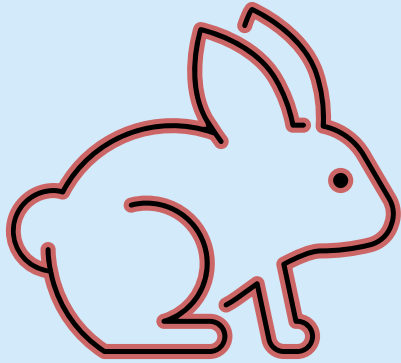
Empowerment,  
Voice, & Choice

Content derived from American Bar Association (2014, October 01). *Establishing a Trauma-Informed Lawyer-Client Relationship*.  
[https://www.americanbar.org/groups/public\\_interest/child\\_law/resources/child\\_law\\_practiceonline/child\\_law\\_practice/vol-33/october\\_2014/establishing-a-trauma-informed-lawyer-client-relationship/](https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-33/october_2014/establishing-a-trauma-informed-lawyer-client-relationship/)



We can offer support to clients when they leave their 'Zone of Optimal Arousal' by implementing trauma-informed grounding techniques.

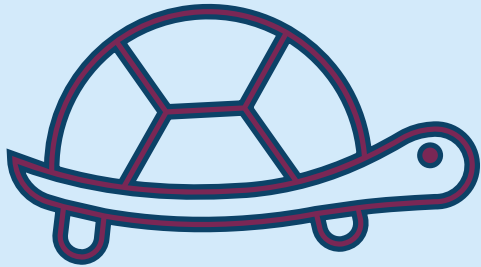
# Supporting Clients in a State of *Hyperarousal*



- Provide simple responses (less than 5 words).
- Disengage from power struggles.
- Speak and breathe more slowly—and in a more rhythmic way.
- Check in with yourself.

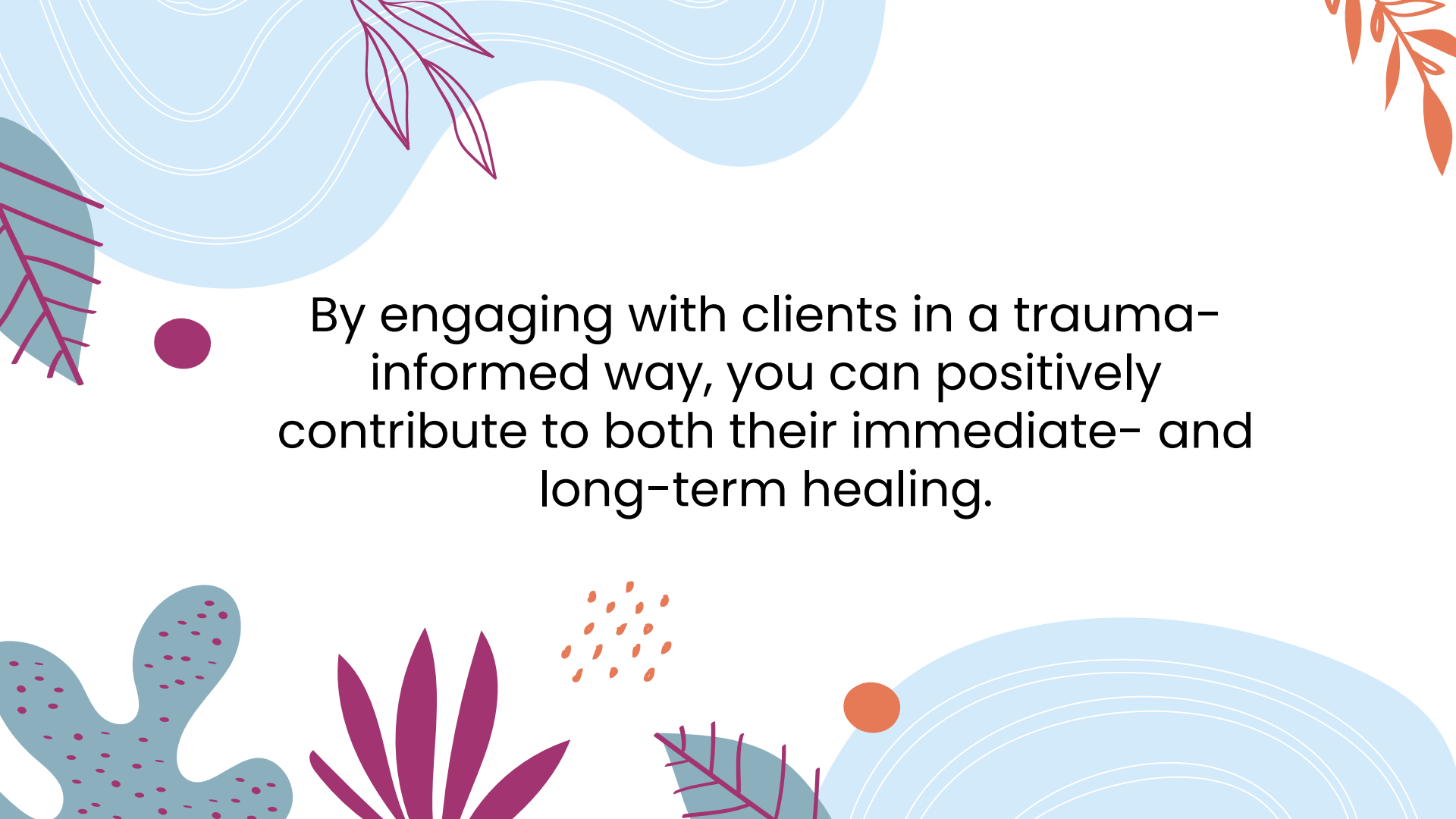


# Supporting Clients in a State of *Hyperarousal*



- Disengage from power struggles.
- Redirect the dialogue away from the triggering topic (even momentarily).
- Activate the body through movement, activity, or the senses.
- Check in with yourself.





By engaging with clients in a trauma-informed way, you can positively contribute to both their immediate- and long-term healing.





15 Grumman Rd West  
Suite 1000  
Bethpage, NY, 11714

**24-Hour Hotline:**  
**(516) 542-0404**

**Thank you!**  
**Take care.**

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