

BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

STATE OF GEORGIA

**Composite State Board  
of Medical Examiners**

OCT 06 2005

IN THE MATTER OF: )

THEODORE JOSEPH ANFINSON, M.D. )  
License No. 036915 )

Respondent. )

**DOCKET NUMBER**  
DOCKET NO. 20050037

CONSENT ORDER LIFTING SUSPENSION SUBJECT TO RESTRICTIONS

By agreement of the Composite State Board of Medical Examiners ("Georgia Board") and Theodore Joseph Anfinson, M.D. ("Respondent"), the following disposition of this matter is entered pursuant to the provisions of O.C.G.A. § 50-13-13(a)(4).

FINDINGS OF FACT

1.

Respondent holds a license to practice medicine in the State of Georgia and that license was suspended by a Final Decision of the Board on February 23, 2005. The Respondent also holds a license to practice medicine in the State of Iowa.

2.

On or about March 13, 2004, Respondent entered into a Settlement Agreement and Final Order ("Iowa Agreement") with the Board of Medical Examiners of the State of Iowa ("Iowa Board"). Pursuant to the terms of Iowa Agreement, Respondent was cited for engaging in unethical and unprofessional conduct "when he engaged in a romantic and/or sexual relationship with a patient to whom he had provided psychiatric care and treatment" and Respondent's Iowa

3.

In March of 2004, Respondent underwent an evaluation by Dr. Gene Abel of the Behavioral Medicine Institute ("BMI"). Dr. Abel has informed the Board that Respondent has taken part in a course of treatments at BMI and that Respondent can return to the practice of medicine provided that Respondent continue to follow the treatment plan recommended by BMI.

4.

On or about October 13, 2004, the Board initiated an administrative proceeding at the Office of State Administrative Hearings for the purpose of sanctioning Respondent's Georgia license based upon the actions taken by Iowa. On or about February 23, 2005, the Board entered a Final Decision in this case pursuant to which Respondent's license to practice medicine in Georgia was suspended.

5.

On or about June 24, 2005, the Iowa Board, having found that Respondent had complied with the terms of the March 30, 2004 Order, reinstated Respondent's license to practice medicine in Iowa subject to terms and conditions of probation.

6.

Respondent waives any further findings of fact with respect to this matter.

#### CONCLUSIONS OF LAW

Under O.C.G.A. § 43-34-36 and §43-1-19, the disciplinary action taken against Respondent's license to practice medicine in the State of Iowa constitutes sufficient grounds for the imposition of sanctions upon his license to practice medicine in the State of Georgia. The

Respondent's license to practice medicine in the State of Georgia is hereby lifted and that Respondent may practice medicine in the State of Georgia subject to the following terms:

1.

Commencing on the effective date of this Consent Order, Respondent's license shall be placed on probation until discharged by the Board, with the following terms and conditions of probation:

(a) Treatment/Aftercare. Respondent shall remain in treatment or aftercare with a therapist at BMI or with another Board approved therapist and shall abide by all terms of his treatment/aftercare plan. Specifically, Respondent must utilize the following Principles of Medical Ethics, Staff Surveillance Forms and Patient Satisfaction Surveys in his practice as recommended by BMI :

(1) Principles of Medical Ethics: Respondent shall ensure that a copy of this form is posted prominently in his examination room(s) and a copy is provided to each patient seen by Respondent.

(2) Staff Surveillance Forms: Respondent shall ensure that all staff who work closely with Respondent, complete the Staff Surveillance Form and submit it in a sealed envelope to the Medical Director to be forwarded directly to Respondent's therapist at the end of each month.

(3) Patient Satisfaction Surveys: Respondent shall ensure that for a one-week period each quarter, all patients seen by the Respondent are provided and asked to complete a Patient Satisfaction Survey. The form is to be distributed and collected from patients by staff, not Respondent, and submitted to the office administrator who will mail the forms to the

(4) Polygraph Examinations: Respondent shall submit to polygraph examinations every six months as recommended by BMI. The content of the examination questions shall be approved by BMI. The results shall be reported by the Board-approved polygrapher to the Board, BMI, and Respondent's Board approved therapist.

(b) Supervision. Respondent shall designate an acceptable supervising ("workplace") physician who works in the same office during the same hours as Respondent and who will supervise his work. Respondent shall provide a copy of this Order to his supervising physician who shall sign statement in substantially the form attached hereto as Attachment A to be submitted in conjunction with this Order, as evidence of having read and understood the same and having agreed to serve as Respondent's supervising physician. Respondent shall obtain prior written Board approval through the Medical Director for any change in the supervising physician.

(c) Quarterly Reports. Respondent shall submit or cause to be submitted quarterly reports from his supervising physician and Board approved therapist regarding his performance and mental/physical condition by March 31, June 30, September 30, and December 31 of each calendar year, including a report on any medication being prescribed to Respondent. Failure to submit or have such reports submitted in a timely manner shall be considered a violation of the Consent Order. It is expected that said supervising physician and Board approved therapist shall be in communication with each other and will immediately report any change in Respondent's condition that would render Respondent unable to practice medicine with reasonable skill and safety to patients. By executing this Consent Order, Respondent specifically consents to such supervising physician and Board approved therapist or any other facility where Respondent

a legitimate medical purpose. If such treatment entails the use of narcotics or other potentially addictive substances, Respondent shall have his practitioner/physician obtain a consultation with the Board approved therapist, who shall notify the Medical Director within ten calendar days of the event.

(e) Drug/Alcohol Screens. The Board or Respondent's Board approved therapist or supervisor shall have the authority at any time to order Respondent to undergo witnessed and immediate drug/alcohol urine, biological fluid, hair sample, or blood screen analysis at Respondent's expense. Proper chain of custody shall be maintained and positive results shall be confirmed by such means as may be required to ensure the validity of such screening.

(f) Further Evaluation. At any time during the period of monitoring, the Board shall also have the authority to order Respondent to undergo a physical or mental evaluation by a physician designated by the Board. Respondent shall execute such releases as may be required for the Board to obtain the results of such evaluations.

(g) Physician's Assistant and Nurse Practitioners. Respondent may not employ a physician's assistant or nurse practitioner during the period of probation. If Respondent employs a physician's assistant or nurse practitioner without the express written permission of the Board, Respondent's license shall be subject to revocation, upon substantiation thereof.

(h) Periods of Residency Outside Georgia. In the event Respondent should leave Georgia to reside or practice outside of Georgia for periods longer than thirty (30) consecutive days, Respondent shall notify the Board in writing of the dates of departure and return. Periods of residency or practice outside of Georgia as well as periods when Respondent is not actively engaged in practicing as a physician will not apply to the reduction of Respondent's probationary

probation. If Respondent shall fail to abide by such laws, rules or terms, or if it should appear from monitoring reports submitted to the Board that Respondent is otherwise unable to practice with reasonable skill and safety to patients, or should Respondent violate the criminal laws of this state, including any term of probation, if any, Respondent's license shall be subject to further discipline, including revocation, upon substantiation thereof after notice and hearing, and if revoked, the Board in its discretion may determine that the license should be permanently revoked and not subject to reinstatement. Respondent further agrees that any violation of this Consent Order shall be deemed to be sufficient to authorize the Board to order summary suspension of Respondent's license, pending further proceedings, pursuant to the provisions of the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-18(c)(1), or any other statute authorizing emergency action, but Respondent understands that Respondent shall be entitled to an expedited hearing to substantiate such violation(s), if the Board exercises such right.

(j) Disclosure. In addition to other disclosures required by this Consent Order, Respondent shall supply a copy of this Consent Order, once approved and docketed, and within ten (10) days from receipt of the docketed copy by Respondent, to each hospital or other institution in Georgia where Respondent maintains staff privileges of any kind, and to any person with whom Respondent is associated in practice, including other physicians or physician's assistants or to any person or entity for whom Respondent is employed as a physician in the State of Georgia. Respondent shall also be required to disclose the existence of and provide a copy of this Consent Order to such individuals or entities in connection with any future application for institutional appointment, associated practice, utilization of a physician's assistant, or employment as a physician in the State of Georgia while this Consent Order is in effect. By

(k) Termination of Probation. Respondent shall not be eligible to petition for termination of probation until five (5) years from the effective date of this Consent Order. At such time, Respondent may petition for termination by certifying under oath before a notary public that he has complied with all conditions of probation and by providing documentation supporting discharge from probation, including reports from his supervising physician and Board approved therapist endorsing the termination of probation. The Composite State Board of Medical Examiners shall review and evaluate the practice of Respondent prior to lifting the probation. At such time, the Board shall be authorized to restore all rights and privileges incident to the license of Respondent, unless the Board has received information that Respondent has not complied with the terms of probation or has otherwise failed to comply with the laws and rules regulating the practice of medicine. Should the Board determine that reasonable cause exists for maintaining Respondent's license on a probationary status, the Board shall notify Respondent of its intent to extend the probationary period, and Respondent may respond to such notification in writing or request an appearance before the Board or its representative as in a non-contested case. In any event, this Consent Order shall remain in effect pending a final determination by the Board and notification that the probationary period has terminated.

2.

This Consent Order shall constitute a public order of the Board that may be disseminated by the Board as a public order.

3.

Respondent acknowledges that Respondent has read this Consent Order and understands

of Law may be present during presentation of this Consent Order to the Board and that the Board shall have the authority to review the investigative file and all relevant evidence in considering this Consent Order. Respondent further understands that this Consent Order, once approved, shall constitute a public record that may be disseminated as a disciplinary action of the Board. However, if the Consent Order is not approved, it shall not constitute an admission against interest in this proceeding, or prejudice the right of the Board to adjudicate this matter. Applicant consents to the terms and conditions contained herein.

Approved, this 6<sup>th</sup> day of October, 2005.

(BOARD SEAL)

BY:

COMPOSITE STATE BOARD OF  
MEDICAL EXAMINERS

M. Vinayak Kamath  
M. VINAYAK KAMATH, M.D.  
President

ATTEST:

Lasharn Hughes  
LASHARN HUGHES  
Executive Director

CONSENTED TO:

Theodore Anfinson  
THEODORE ANFINSON, M.D.  
Respondent

Sworn to and Subscribed  
before me this 29<sup>th</sup> day  
of September, 2005.

Shelia H. Gray  
NOTARY PUBLIC

My Commission Expires:

Notary Public, Douglas County, Georgia  
My Commission Expires June 7, 2009

**BEFORE THE COMPOSITE STATE BOARD OF MEDICAL EXAMINERS  
STATE OF GEORGIA**

**Composite State Board  
of Medical Examiners**

FEB 23 2005

**IN THE MATTER OF :**

\*

**THEODORE ANFINSON, M.D.  
License No. 036915**

\*

**DOCKET NUMBER  
DOCKET NO. 2005-0037**

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**Respondent.**

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**FINAL DECISION**

An INITIAL DECISION(decision)of Special Assistant Administrative Law Judge W. Joseph Baird, Jr., for Summary Determination was filed in the above matter on December 30, 2004. The Respondent filed for Review on January 19, 2005. Pursuant to this motion, a hearing was scheduled before the Composite State Board of Medical Examiners at 10:00 a.m., on February 4, 2005.

The parties hereto were given notice of the hearing and the hearing was conducted. As a consequence of the hearing, the Board finds as follows:

**FINDINGS OF FACT**

The Findings of Fact found by the Special Assistant Administrative Law Judge in the Initial Decision are hereby adopted and incorporated by reference.

**CONCLUSIONS OF LAW**

The Conclusions of Law reached by the Special Assistant Administrative Law Judge in the Initial Decision are hereby adopted and incorporated by reference herein.

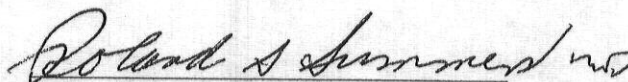
**ORDER**

The Sanctions ordered by the Special Assistant Administrative Law Judge in the Initial Decision are hereby adopted and incorporated by reference herein.

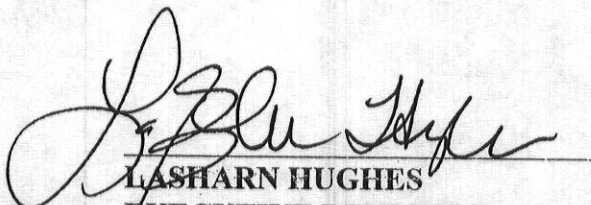
The effective date is ten (10) days from the docketing of this Final Order.

IT IS SO ORDERED this 23<sup>rd</sup> day of February, 2005.

**COMPOSITE BOARD OF MEDICAL EXAMINERS  
STATE OF GEORGIA**



**ROLAND S. SUMMERS, M.D.  
PRESIDENT**



**LASHARN HUGHES  
EXECUTIVE DIRECTOR  
COMPOSITE BOARD OF MEDICAL EXAMINERS**

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**

**GEORGIA COMPOSITE STATE BOARD )  
OF MEDICAL EXAMINERS, )  
PETITIONER )**

**v. )**

**THEODORE ANFINSON, M.D., )  
RESPONDENT )**

**DOCKET NUMBER**

**OSAH-CSRME-0506888-  
Composite State Board  
of Medical Examiners**

**JAN 05 2004**

**DOCKET NUMBER**

**20050037**

**FILED**

**DEC 30 2004**

**OFFICE OF STATE  
ADMINISTRATIVE HEARINGS**

**INITIAL DECISION**

**ORDER GRANTING PETITIONER'S MOTION FOR SUMMARY  
DETERMINATION**

**I. Introduction**

In this matter the Petitioner, the Georgia Composite State Board of Medical Examiners (Board), seeks to suspend the license of Dr. Theodore Anfinson (Respondent) to practice as physician in Georgia until his license to practice medicine in Iowa has been reinstated. A hearing was set down on this matter for November 22, 2004. In a telephone conference call on November 17, 2004, the parties agreed to waive their right to an evidentiary hearing and to submit this case for disposition on motions for summary determination. The Petitioner's Motion for Summary Determination (PMSD) was filed on November 19, 2004. On December 6, 2004, the Respondent filed a Response to Motion for Summary Determination (Response). Although not labeled as such, the Response is also in the nature of a cross motion for summary determination and will be accepted as such. After considering the various motions of the parties, the undersigned has determined that the PMSD should be GRANTED and the Respondent's Response, which is in the nature of a cross motion, should be DENIED.

**II. Undisputed Material Facts**

**1.**

Respondent is licensed as a physician in the State of Georgia and was so licensed at all times relevant to the matters stated herein. Hughes Affidavit, Exhibit A of the PMSD

**2.**

Respondent is also currently licensed in the State of Iowa and was so licensed at all relevant times. Exhibit B of PMSD.

3.

On or about March 30, 2004, the Respondent and the Board of Medical Examiners of the State of Iowa (Iowa Board) entered into a Settlement Agreement and Final Order (Iowa Agreement). Exhibit B of PMSD.

4.

Under the terms of Iowa Agreement, the Respondent was cited for "engaging in unethical or professional conduct when he engaged in a romantic and/or sexual relationship with patient to whom he had provided psychiatric care and treatment." Furthermore, under the terms of the Iowa Agreement, Respondent's license to practice medicine in the State of Iowa was indefinitely suspended until he complied with certain terms. Respondent's license to practice medicine in the State of Iowa would only be reinstated after he petitioned the Iowa Board for reinstatement, paid a fine and submitted an evaluation for professional sexual misconduct at a program pre-approved by the Board, and complied with the recommendations of the treatment program. Exhibit B of the PMSD.

5.

The Iowa Board action is based on the Respondent's relationship and subsequent marriage to a former patient whom he treated at Ridgeview Institute. The Respondent treated this patient from October 1997 to February 1998 for depression and alcohol abuse when he transferred her to another doctor's care due to developing transference issues. A personal relationship developed and after each divorced their spouses, the Respondent and the patient married in December 1999. Exhibit A of the Response.

6.

In March 2004, the Respondent underwent an evaluation by Dr. Gene Abel of the Behavioral Medicine Institute. The Respondent has also taken part in a course of treatments with Dr. Abel. Dr. Abel has concluded that the Respondent poses no threat to the public and supports his continued practice of medicine in Georgia. Exhibit B of the Response.

7.

The Board has not received notice that the Respondent's license to practice medicine in the State of Iowa has been reinstated. Hughes Affidavit, Exhibit A of the PMSD.

### III. Conclusions of Law

1.

On a Motion for Summary Determination, the moving party must show by supporting affidavits or other probative evidence that there is no genuine dispute as to any material facts such that the moving party is entitled to a determination in his favor as a matter of law. OSAH Rule 616-1-2-.15(1). Once the moving party presents probative evidence supporting its motion the opposing party must produce probative evidence, by affidavit or otherwise, showing that there is a genuine issue of materials facts. OSAH Rule 616-1-2-.15(3). *See Leonaitis v. State Farm Mutual Automobile Insurance Company*, 186 Ga. App. 854, 856 (1988).

2.

The Board was created by statute under O.C.G.A. § 43-34-21. Under O.C.G.A. §§ 43-34-21, 43-34-24.1, and 43-34-27, the Board has authority to issue licenses to physicians in the State of Georgia.

3.

Under O.C.G.A. §§ 43-1-19(a)(5) and 43-34-37(a)(5), the Board is granted authority to sanction the license of a person licensed by the Board upon a finding that the person has had his license sanctioned by any lawful licensing authority.

4.

The Respondent in his Response did not deny any of the factual allegations set forth in the Petitioner's Motion for Summary Determination. He also admitted that under Georgia law, the Board is authorized to suspend his Georgia medical license based on the disciplinary action taken against him in the State of Iowa. In his response the Respondent has suggested that a more appropriate sanction, given mitigating circumstances, to be applied against the Respondent would be for him to retain his license subject to various specified conditions including continued monitoring and therapy. The Respondent in his Response cites as mitigating circumstances the following: (a) the underlying events took place more than five years ago; (b) the boundary violation was a one time occurrence; (c) Respondent has fully complied with the Iowa Board Order; (d) the Respondent has adhered to Dr. Abel's recommendations for treatment; (e) Dr. Abel has stated the Respondent poses no threat to the public and should continue to practice as a physician; (f) the Respondent has expressed remorse for his actions; and (g) noted colleagues have supported his continued practice of medicine.


5.

This ALJ does not agree with the apparent position of the Petitioner's counsel in this matter that the only issue to be considered in this case is whether or not the Respondent is authorized under law to impose its proposed sanction. The law allows the Petitioner to sanction a physician's license if that physician has been sanctioned in another state but does not require it to do so. The law also does not require that the sanction imposed be identical to the sanction applied by the other state authority. Also under OSAH Rule 21(3) the review by this ALJ if the Petitioner's action is *de novo* in nature. That being stated, this ALJ finds no reason to reverse or modify the action of the Petitioner in this matter. The Petitioner has proposed to suspend the Respondent's license until the Respondent complies with all the conditions of the Iowa Agreement and has his Iowa license restored. Under the circumstances of this case this seems to be a reasonable action. The Respondent consented to Iowa Agreement in March of this year. The Respondent has failed to explain why the conditions contained in said agreement should not also apply equally here in Georgia. For this reason, the proposed action of the Petitioner in this matter is being upheld.

#### IV. Order

The Petitioner's Motion for Summary Determination is hereby GRANTED and the Respondent's Response, which is in the nature of a cross motion for summary determination, is hereby DENIED. The Respondent's proposed suspension of the Respondent's license to practice as a physician in Georgia is AFFIRMED.

SO ORDERED this the 30<sup>th</sup> day of December, 2004.

  
W. Joseph Baird  
Administrative Law Judge

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS

STATE OF GEORGIA

**Composite State Board  
of Medical Examiners**

IN THE MATTER OF

THEODORE ANFINSON, M.D.  
LICENSE NO. 36915

Respondent.

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DOCKET NO.

SEP 21 2004

**DOCKET NUMBER**

20050037

MATTERS ASSERTED AND  
STATUTES AND RULES INVOLVED

Pursuant to O.G.G.A. § 50-13-13, the Composite State Board of Medical Examiners ("the Board") hereby provides Respondent with the matters asserted and the statutes and rules involved for purposes of sanctioning the Respondent's license. The matters asserted below, if correct, constitute sufficient grounds for the sanctioning of Respondent's license to practice as a physician and to seek reimbursement for the costs of bringing this action.

MATTERS ASSERTED

1.

Respondent is licensed to practice medicine in the State of Georgia, and was so licensed at all times relevant to the matters stated herein. The Respondent is also licensed to practice medicine in the State of Iowa, and was so licensed at all time relevant to the matters stated herein. However, Respondent's license is currently suspended in the State of Iowa.

2.

On or about March 13, 2004, Respondent entered into a Settlement Agreement and Final Order ("Iowa Agreement") with the Board of Medical Examiners of the State of Iowa ("Iowa Board").

3.

In the Iowa Agreement, Respondent was cited for engaging in unethical and unprofessional conduct "when he engaged in a romantic and/or sexual relationship with a patient to whom he had provided psychiatric care and treatment."

4.

Under the terms of the Iowa Agreement, Respondent's Iowa license was indefinitely suspended. The suspension would last until Respondent (a) paid a five thousand dollar civil penalty, (b) submit <sup>ted</sup> an evaluation for professional sexual misconduct at a program pre-approved by the Board, and (c) <sup>complied</sup> comply with any recommendations for treatment by that program.

#### STATUTES AND RULES INVOLVED

O.C.G.A. § 43-1-19 states:

(a) A professional licensing board shall have the authority to refuse to grant a license to an applicant therefor or to revoke the license of a person licensed by that board or to discipline a person licensed by that board, upon a finding by a majority of the entire board that the licensee or applicant has:

(5) Had his or her license to practice a business or profession licensed under this title revoked, suspended, or annulled by any lawful licensing authority other than the board; or had other disciplinary action taken against him or her by any such lawful licensing authority other than the board; or was denied a license by any such lawful licensing authority other than the board, pursuant to disciplinary proceedings; or was refused the renewal of a license by any such lawful licensing authority other than the board, pursuant to disciplinary proceedings.

(d) When a professional licensing board finds that any person is unqualified to be granted a license or finds that any person should be disciplined pursuant to subsection (a) of this Code section or the laws, rules, or regulations relating to the business or profession licensed by the board, the board may take any one or more of the following actions:

(2) Administer a public or private reprimand, but a private reprimand shall not be disclosed to any person except the licensee;

(3) Suspend any license for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of said license;

- (4) Limit or restrict any license as the board deems necessary for the protection of the public;
- (7) Impose a fine not to exceed \$500.00 for each violation of a law, rule, or regulation relating to the licensed business or profession; or
- (8) Impose on a licensee or applicant fees or charges in an amount necessary to reimburse the professional licensing board for the administrative and legal costs incurred by the board in conducting an investigative or disciplinary proceeding.

Likewise, O.C.G.A. § 43-34-37 states:

(a) The board shall have authority to refuse to grant a license to an applicant or to discipline a physician licensed under this chapter or any antecedent law upon a finding by the board that the licensee or applicant has:

(5) Had his license to practice medicine revoked, suspended, or annulled by any lawful licensing authority; or had other disciplinary action taken against him by any lawful licensing authority; or been denied a license by any lawful licensing authority.

(b)(1) When the board finds that any person is unqualified to be granted a license or finds that any person should be disciplined pursuant to subsection (a) of this Code section, the board may take any one or more of the following actions:

(B) Administer a public or private reprimand, provided that a private reprimand shall not be disclosed to any person except the licensee;

(C) Suspend any license for a definite period;

(D) Limit or restrict any license.

Board Rule 360-3-.01, entitled "Disciplinary Authority," states:

The Composite State Board of Medical Examiners ("Board") is authorized to deny, revoke, suspend, fine, reprimand or otherwise limit the license of a physician or physician's assistant for all the grounds set forth in O.C.G.A. § 43-1-19(a), and to deny, revoke, suspend, fine, reprimand or otherwise limit the license of a physician pursuant to O.C.G.A. § 43-34-37. In addition, the Board is authorized to terminate the approval of a physician's assistant and to revoke the license of a physician's assistant pursuant to O.C.G.A. § 43-34-107.

COMPOSITE STATE BOARD  
OF MEDICAL EXAMINERS

ROLAND SUMMERS, M.D.  
President

Prepared by:

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