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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

**D R A F T M I N U T E S**

MEETING OF:

**STATE BOARD OF CHIROPRACTIC**

TIME: 10:33 A.M.

**PENNSYLVANIA DEPARTMENT OF STATE**

2601 North Third Street  
One Penn Center, Board Room C  
Harrisburg, Pennsylvania 17110

**VIA MICROSOFT TEAMS**

December 29, 2022

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State Board of Chiropractic

December 29, 2022

BOARD MEMBERS:

Michael S. Swank, D.C., Chairperson  
Arion R. Claggett, Acting Commissioner, Bureau of  
Professional and Occupational Affairs  
William D. Aukerman, D.C., Secretary  
Ann R. Johnston, Senior Deputy Attorney General,  
Office of Attorney General, Consumer Protection  
Member  
Doyle W. Young III, Public Member Jonathan W.  
McCullough, D.C.

BUREAU PERSONNEL:

Carole Clarke Smith, Esquire, Senior Board Counsel  
Carolyn DeLaurentis, Deputy Chief Counsel,  
Prosecution  
Division  
Heather J. McCarthy, Esquire, Senior Board Prosecutor  
Tyesha C. Miley, Esquire, Board Counsel  
Colby B. Widdowson, Esquire, Board Prosecution  
Liaison  
Garrett A. Rine, Esquire, Board Prosecutor  
Sarah E. McNeill, Board Administrator  
Shakeena Chappelle, Board Administrator  
Amanda Richards, Fiscal Chief, Bureau of Finance and  
Operations, Department of State  
Michelle Witmer, Fiscal Management Specialist,  
Bureau of Finance and Operations, Department of State  
Jennifer Gage, Fiscal Management Specialist,  
Department of State  
Tamie Laudenslager, Fiscal Management Specialist,  
Bureau of Finance and Operations, Department of

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State  
Andrew LaFratte, MPA, Executive Policy Specialist,  
Department of State

ALSO PRESENT:

Keith Miller, D.C., President, Pennsylvania  
Chiropractic Association  
State Board of Chiropractic

December 29, 2022

ALSO PRESENT: (cont.)

Jennifer Smeltz, Republican Executive Director,  
Senate Consumer Protection & Professional Licensure  
Committee  
Edward L. Nielsen, MHS, Executive Vice President,  
Pennsylvania Chiropractic Association  
George E. Khoury, D.C., District III Director,  
Federation of Chiropractic Licensing Boards  
Ted Mowatt, CAE, Vice President, Wanner Associates,  
On behalf of the of the Chiropractor Fellowship of  
Pennsylvania  
Kyle Freeman  
Derek Jokelson, Esquire, Jokelson Law Group, P.C.  
Casey Phillips, D.C., Five Points Chiropractic  
& Wellness  
Amber Garbinski

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State Board of Chiropractic

December 29, 2022

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[Pursuant to Section 708(a)(5) of the Sunshine Act, at 9:30 a.m. the Board entered into Executive Session with Tyesha C. Miley, Esquire, Board Counsel, to have attorney-client consultations and for the purpose of conducting quasi-judicial deliberations. The Board returned to open session at 10:30 a.m.]

\*\*\*

Official Call to Order

112 [Michael Swank, D.C., Chair, called the meeting of the State  
113 Board of Chiropractic to order at 10:33  
114 a.m.]

115 \*\*\*

116 [Tyesha C. Miley, Esquire, Board Counsel, reminded everyone  
117 the meeting was being held in relation to Act 100 of 2021,  
118 which provides for virtual meetings, and the requirements of  
119 the practice act, where each licensing board and commission  
120 is required to use a virtual platform to conduct business  
121 when a public meeting is held.

122 Ms. Miley noted the meeting was being recorded, and those  
123 who continued to participate were giving their consent to be  
124 recorded.

125 Ms. Miley also informed everyone that the Board met in  
126 Executive Session to have attorney-client consultations and  
127 for the purpose of conducting quasi-judicial deliberations.]

128 \*\*\*

129 Introduction of Board Members and Attendees [Michael Swank,  
130 D.C., Chair, requested an introduction of Board members  
131 and attendees.]

132 \*\*\*

133 Approval of minutes of the October 6, 2022 meeting MS.

134 MILEY:

135 The Chair would entertain a motion to adopt  
136 the meeting minutes from the regular October  
137 6, 2022 meeting.

138 DR. AUKERMAN:

139 I would like to make a motion to approve the  
140 draft minutes of October 6,  
141 2022.

142 MS. MILEY:

143 Is there a second?

144 MS. JOHNSTON:

145 I second that motion.

146 MS. MILEY:

147 Is there any discussion of this?

148 Seeing none.

149 Ms. Chappelle, may we have a roll call  
150 vote?

151

152 Dr. Swank, aye; Commissioner Claggett, aye;  
153 Dr. Aukerman, aye; Ann Johnston, aye; Doyle  
154 Young, abstain; Dr.  
155 McCullough, abstain.

156 [The motion carried. Doyle Young and Jonathan  
157 McCullough abstained from voting on the motion.]

158

\*\*\*

159 Approval of minutes of the October 6, 2022 regulatory  
160 meeting

161 MS. MILEY:

162 The Chair would entertain a motion for the  
163 adoption of the October 6  
164 Regulatory Meeting Minutes.

165 Is there a motion?

166 DR. AUKERMAN:

167 I would like to make a motion to approve the  
168 draft regulatory minutes of  
169 October 6, 2022.

170 MS. MILEY:

171 Is there a second?

172 MS. JOHNSTON:

173 I second that motion.

174 MS. MILEY:

175 Is there any discussion? Hearing none.

176

177 Ms. Chappelle, read the roll call vote.

178

179 Dr. Swank, aye; Commissioner Claggett,  
180 abstain; Dr. Aukerman, aye; Ann Johnston,  
181 aye; Doyle Young, abstain; Dr. McCullough,  
182 abstain.

183 [The motion carried. Arion Claggett, Doyle Young, and  
184 Jonathan McCullough abstained from voting on the motion.]

185 \*\*\*

186 [Tyesha C. Miley, Esquire, Board Counsel, noted item 3 was  
187 added to the agenda in error and has been withdrawn for  
188 consideration.]

189 \*\*\*

190 Report of Prosecution

191 [Colby B. Widdowson, Esquire, Board Prosecution  
192 Liaison, presented the Consent Agreement for Case No.  
193 22-43-005884.] CHAIR

194 SWANK:

195 Do we have a motion to accept the  
196 agreement of Case No. 22-43-005884?

197 DR. AUKERMAN:

198 I make a motion to approve the Consent  
199 Agreement and Order at Case No. 22-43-  
200 005884.

201 MS. JOHNSTON:

202 I second the motion.

203 MS. MILEY:

204 Any discussion?

205 CHAIR SWANK:

206 Can we have a vote?



207

208

Dr. Swank, aye; Commissioner Claggett, aye;

209

Dr. Aukerman, aye; Ann Johnston, aye; Doyle

210

Young, abstain; Dr.

211

McCullough, abstain.

212

[The motion carried. Doyle Young and Jonathan

213

McCullough abstained from voting on the motion. The

214

Respondent's name for Case No. 22-43-005884 is Linda \_\_\_\_\_

215

K. Molitoris, D.C.]

216

\*\*\*

217

[Heather J. McCarthy, Esquire, Senior Board

218

Prosecutor, presented the Consent Agreement for Case

219

No. 21-43-003278.] CHAIR

220

SWANK:

221

Motion to accept the agreement?

222

DR. AUKERMAN:

223

I make a motion to accept the Consent

224

Agreement and Order at Case No. 21-43-

225

003278.

226

MS. JOHNSTON:

227

I second that motion.

228

MS. MILEY:

229

Is there any discussion? Hearing none.

230

CHAIR SWANK:

231 Call for a vote.

232

233 Dr. Swank, yes; Commissioner Claggett, aye;

234 Dr. Aukerman, aye; Ann Johnston, aye; Doyle

235 Young, abstain; Dr.

236 McCullough, abstain.

237 [The motion carried. Doyle Young and Jonathan

238 McCullough abstained from voting on the motion. The

239 Respondent's name for Case No. 21-43-003278 is

240 Gregory Thomas White Jr., D.C.]

241

\*\*\*

242 [Heather J. McCarthy, Esquire, Senior Board

243 Prosecutor, on behalf of Andrea L. Costello, Esquire,

244 Board Prosecutor, presented the Consent Agreement for

245 Case No. 21-43-016307.]

246 CHAIR SWANK:

247 Motion to accept the agreement?

248 DR. AUKERMAN:

249 I make a motion to approve the Consent

250 Agreement and Order at Case No. 22-43-

251 016307.

252 MS. JOHNSTON:

253 I second that motion.

254 MS. MILEY:

255 Any discussion?

256 CHAIR SWANK:

257 I call for a vote on item 6 at Case No.  
258 22-43-016307.

259

260 Dr. Swank, aye; Commissioner Claggett, aye;

261 Dr. Aukerman, aye; Ann Johnston, aye; Doyle

262 Young, abstain; Dr.

263 McCullough, abstain.

264 [The motion carried. Doyle Young and Jonathan

265 McCullough abstained from voting on the motion.]

266

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267 [Garrett A. Rine, Esquire, Board Prosecutor, presented the

268 Consent Agreement for Case No. 20-43-

269 003588.]

270 CHAIR SWANK:

271 Do we have a motion to accept the agreement?

272 DR. AUKERMAN:

273 I'll make a motion to approve the Consent

274 Agreement and Order at Case No.

275 20-43-003588.

276 MS. JOHNSTON:

277 I second that motion.

278 MS. MILEY:

279 Any discussion?

280 CHAIR SWANK:

281 Call for the vote.

282

283 Dr. Swank, aye; Commissioner Claggett, aye;

284 Dr. Aukerman, aye; Ann Johnston, aye; Doyle

285 Young, abstain; Dr.

286 McCullough, abstain.

287 [The motion carried. Doyle Young and Jonathan

288 McCullough abstained from voting on the motion. The

289 Respondent at Case No. 20-43-003588 is Warren T.

290 Eichhorn, D.C.]

291 \*\*\*

292 Appointment - Bureau of Finance and Operations

293 Annual Budget Presentation

294 [Amanda Richards, Chief of Fiscal Management, Bureau of

295 Finance and Operations, Department of State, referred to

296 licensee population over the past seven years, noting the

297 Board had 4,011 licensees in FY2122 and 3,798 licensees as

298 of the time of the report, showing a decrease of 213

299 licensees.

300 Ms. Richards provided a four-year history of the

301 chiropractor license class. She reported a small decrease

302 in licensees from renewal FY20-21 at 3,839 and FY22-23 at

303 3,798 licensees, noting the decrease to be normal but that  
304 the Bureau of Finance and Operations (BFO) would watch it to  
305 make sure there is not anything significant going forward.

306 Ms. Richards addressed revenue and stated it is reviewed on  
307 a biennial basis. She reported on the revenue for FY20-21  
308 and FY21-22, noting the biennial total. She noted 97  
309 percent of revenue is made up of renewals and applications.  
310 She stated that revenue is received from other categories  
311 but is not consistent. She mentioned the Board approved a  
312 biennial renewal fee increase in February 2022 to increase  
313 the license renewal fee to \$225 in FY24-25, \$241 in FY26-27,  
314 and \$258 in FY28-29.

315 Ms. Richards noted the two main categories when reviewing  
316 expenses are administrative and legal costs. She stated  
317 that expenses are brought in through direct charges,  
318 timesheet-based charges, and licensee population. She  
319 referred to the expenses in FY20-21, FY21-22, and at the  
320 time of the report on  
321 December 16, 2022. She noted the budgeted amount for FY22-  
322 23 is adequate. She stated BFO is projecting a decrease in  
323 the out years but is also taking into account the new fee  
324 increase going into effect in FY24-25, which should bring  
325 things back up to a positive balance.]

326

\*\*\*

327 Report of Acting Commissioner - No Report

328 \*\*\* Report

329 of Board Counsel

330 MS. MILEY:

331 For the consideration of the members today,

332 I have agenda item 8, an Adjudication and

333 Order pertaining to

334 Case No. 22-43-005206.

335 CHAIR SWANK:

336 Do we have a motion to accept?

337 DR. AUKERMAN:

338 I'll make a motion to accept the

339 Proposed Adjudication and Order.

340 MS. JOHNSTON:

341 I move to second that motion.

342 MS. MILEY:

343 Is there any discussion?

344 ACTING COMMISSIONER CLAGGETT:

345 Shakeena, could we have a roll call, please?

346

347 Dr. Swank, aye; Commissioner Claggett, aye;

348 Dr. Aukerman, aye; Ann Johnston, aye; Doyle

349 Young, abstain; Dr.

350 McCullough, abstain.

351 [The motion carried. Doyle Young and Jonathan  
352 McCullough abstained from voting on the motion. The  
353 Respondent's name is Michael E. Seldow, D.C. at Case  
354 No. 22-43-005206.]

355 \*\*\* Report  
356 of Regulatory Board Counsel

357 MS. MILEY:

358 The next item on the agenda are the proposed  
359 regulations pertaining to fees for the  
360 Chiropractic Board at 16A-4335. At this  
361 time, the Chair will entertain a motion to  
362 approve the proposed regulation, which  
363 includes the preamble and annex, of 16A-4335  
364 relating to fees and direct Board Counsel to  
365 move the proposed rulemaking through the  
366 regulatory process.

367 Is there such a motion? DR.

368 AUKERMAN:

369 I'll make a motion to approve regulation  
370 16A-4335, the proposed fee regulation.

371 MS. MILEY:

372 Is there a second?

373 MS. JOHNSTON:

374 I'll second that.

375 MS. MILEY:

376 Is there any discussion? Hearing none.

377 May we have a roll call vote, Ms.

378 Chappelle?

379

380 Dr. Swank, aye; Commissioner Claggett, aye;

381 Dr. Aukerman, aye; Ann Johnston, aye; Doyle

382 Young, abstain; Dr.

383 McCullough, abstain.

384 [The motion carried. Doyle Young and Jonathan

385 McCullough abstained from voting on the motion.]

386 \*\*\*

387 Report of Board Chair

388 [Michael Swank, D.C., Chair, thanked new Board members, Dr.

389 McCullough and Doyle Young. He noted being pleased with

390 having the new Board members but also mentioned the Board

391 has openings for one professional member and one public

392 member and is still looking for additional applicants.]

393 \*\*\*

394 Report of Board Administrator

395 [Shakeena Chappelle, requested the Board's approval for the

396 proposed 2024 Board meeting dates of February

397 8, April 18, June 13, August 15, October 17, and

398 December 17.]



399 CHAIR SWANK:

400 I request a motion.

401 DR. AUKERMAN:

402 I'll make a motion to approve the 2024

403 meeting dates just discussed for

404 February through December.

405 MS. JOHNSTON:

406 I move to second that.

407 CHAIR SWANK:

408 Call for a vote to approve the 2024 dates.

409

410 Dr. Swank, aye; Commissioner Claggett, aye;

411 Dr. Aukerman, aye; Ann Johnston, aye; Doyle

412 Young, aye; Dr. McCullough, aye.

413 [The motion carried unanimously.]

414 \*\*\*

415 Old Business

416 [William D. Aukerman, D.C., Secretary, addressed his  
417 attendance at a Federation of Chiropractic Licensing Boards  
418 Meeting December 5-6. He stated many boards have the same  
419 type of problems with boundary violations, fraud, substance  
420 abuse, and unprofessional conduct.

421 Dr. Aukerman addressed states having new licensees attend  
422 in-person and online Board meetings, noting some states are

423 giving new licensees credit up to 8 hours for attending  
424 board meetings depending on the state. He commented that  
425 this helps the licensee understand what the Board can and  
426 cannot do and believe it is something Pennsylvania needs to  
427 entertain in the future.

428 Dr. Aukerman mentioned there was also discussion of Board  
429 members receiving training for trauma victims abused by  
430 licensees. He noted End Violence Against Women  
431 International (EVAWI) was a good resource for Board members  
432 to better understand victims of violence and domestic abuse.

433 Dr. Aukerman noted discussions on Special  
434 Purposes Examination for Chiropractic (SPEC) and how that  
435 pertains to people reinstating their license. He  
436 addressed discussions on using a matrix for decision-making,  
437 including pulling licenses and suspending licenses. He  
438 reported having a copy that could be entertained at the next  
439 Board meeting to help better understand discipline and Board  
440 actions.]

441 \*\*\*

442 New Business - Annual Election of Officers

443 CHAIR SWANK:

444 We have new business next, which would be  
445 the annual election of officers for

446 nominations for 2023. Who would like to  
447 open that nomination process?

448 DR. AUKERMAN:

449 I would like to run for Chairman in 2023.  
450 I've been on this Board for almost seven  
451 years and have a good feel what's going on  
452 in the state and other states by attending  
453 the Chiropractic  
454 Licensing Board Meetings.

455 CHAIR SWANK:

456 Any additional nominations for Chair?  
457 Any additional nominations for any  
458 other Board positions?

459 MR. YOUNG:

460 I'd like to nominate Dr. McCullough for  
461 secretary.

462 CHAIR SWANK:

463 Any additional nominations for  
464 secretary? Seeing none. Any  
465 additional nominations for any  
466 additional officers on the Board?  
467 Seeing none.

468 I'd like to close the nominations at  
469 this time then. Can we have a vote on those  
470 nominations?

471 [Casey Phillips, D.C., Five Points Chiropractic &  
472 Wellness, wanted to nominate someone for the open Board  
473 member position. Commissioner Johnson explained that he  
474 could not nominate someone to join the Board but would  
475 follow up with him offline.]

476 CHAIR SWANK:

477 The motion for nominees for Chairman is Dr.  
478 William Aukerman and the additional  
479 nomination of Dr. Jonathan McCullough for  
480 secretary. No additional nominations seen.

481 I call for a vote on Dr. Aukerman  
482 for Chairman.

483 DR. AUKERMAN:

484 I move to make a motion to accept the  
485 chairmanship for 2023 of the State  
486 Board of Chiropractic.

487 DR. MCCULLOUGH:

488 Second.

489 MS. MILEY:

490 Attorney Johnston will second.

491 MS. JOHNSTON:

492 I second that motion.

493 MS. MILEY:

494 Any discussion?

495 CHAIR SWANK:

496 I call for the roll vote for Dr. Aukerman to  
497 be nominated for Chair in  
498 2023.

499  
500 Dr. Swank, aye; Commissioner Claggett, aye;  
501 Dr. Aukerman, aye; Ann Johnston, aye; Doyle  
502 Young, aye; Dr. McCullough, aye.

503 [The motion carried unanimously.]

504 \*\*\*

505 CHAIR SWANK:

506 I call for the motion to accept the  
507 nomination of Dr. McCullough for secretary.

508 DR. AUKERMAN:

509 I'll make a motion to proceed with the  
510 nomination of Dr. McCullough for secretary  
511 of the state Board for 2023.

512 MS.

513 JOHNSTON:

514 I second that motion.

515 MS. MILEY:

516 Any discussion? Seeing none. CHAIR

517 SWANK:

518 I call for the vote on Secretary  
519 Jonathan McCullough for 2023.

520

521 Dr. Swank, aye; Commissioner Claggett, aye;  
522 Dr. Aukerman, aye; Ann Johnston, aye; Doyle  
523 Young, aye; Dr. McCullough, aye.

524 [The motion carried unanimously.]

525

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526 Appointment - Prosecution Division Annual Report  
527 Presentation

528 [Arion R. Claggett, Acting Commissioner, Bureau of  
529 Professional and Occupational Affairs, informed Board  
530 members that Ms. DeLaurentis would not be presenting today  
531 after speaking with her but would be presenting sometime in  
532 2023.]

533

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534 Public Comment

535 [Edward Nielsen, MHS, Executive Vice President, Pennsylvania  
536 Chiropractic Association, expressed concern with some of the  
537 penalties for doctors that the Board approved a couple of  
538 months ago and believed they are grossly out of line with a  
539 lot of the other health care professionals.]

540                   Keith Miller, D.C., President, Pennsylvania  
541 Chiropractic Association, stated the Pennsylvania  
542 Chiropractic Association (PCA) has concerns regarding 27  
543 violations that chiropractors can be guilty of but not  
544 medical doctors (MDs) and doctors of osteopathic medicine  
545 (DOs).

546       Mr. Miller commented that PCA believed those 27 crimes  
547 should be applied to the other health professions as well or  
548 chiropractors should not be subject to those and all health  
549 care professionals should be held to the same standard. He  
550 asked whether the Board, representatives of the Office of  
551 Attorney General (OAG), or other departments have some kind  
552 of comment or an explanation as to why the chiropractic  
553 profession has been singled out much more heavy-handed than  
554 every other health profession in Pennsylvania.

555                   Carole Clarke Smith, Esquire, Senior Board  
556 Counsel, commented that PCA is referring to Act 53, noting  
557 the public comment period just ended, and it would be  
558 premature for the Board to comment on any of the comments  
559 received because they have not seen them.

560       Ms. Clarke Smith informed everyone that the Board would be  
561 looking at all of the comments received specific to the  
562 Chiropractic Board at a future meeting. She mentioned that  
563 each board is its own board and its practice and patient

564 interaction is different. She noted each board came up with  
565 its own list and that the bureau, as a whole, would be  
566 responding to comments on the final regulation, but this  
567 Board specifically would take up any comments related to its  
568 specific list of crimes when those comments are placed on  
569 the agenda.

570 Mr. Miller requested, as the Pennsylvania Chiropractic  
571 Association representing a large percentage of the licensees  
572 in the state, the Board look at their comments and  
573 discrepancies between doctors of chiropractic scope licenses  
574 on Act 53 and other health care boards and suggested they  
575 make them equal or fair. He commented that there are  
576 certain things that are scope-specific but PCA believed that  
577 27 is heavy-handed and singlehandedly punishes the  
578 profession on a much higher standard.

579 Ms. Miley referred to a comment by Mr. Nielsen and provided  
580 clarification that the specific offenses had been previously  
581 approved and published on the  
582 State Board of Chiropractic's website since December  
583 2020 and not a couple of months ago.]

584 \*\*\*

585 Adjournment

586 CHAIR SWANK:

587 I'll entertain a motion for adjournment.



588 DR. AUKERMAN:

589 I'll make a motion to adjourn the meeting.

590 DR. MCCULLOUGH:

591 I will second that.

592 \*\*\*

593 [There being no further business, the State Board of  
594 Chiropractic Meeting adjourned at 11:40 a.m.]

595 \*\*\*

596

597 CERTIFICATE

598

599 I hereby certify that the foregoing summary minutes of the  
600 State Board of Chiropractic meeting, was reduced to writing  
601 by me or under my supervision, and that the minutes  
602 accurately summarize the substance of the State Board of  
603 Chiropractic meeting.

604



605  
606

Amber Garbinski,

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Minute Clerk

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Sargent's Court Reporting

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Service, Inc.

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STATE BOARD OF CHIROPRACTIC  
REFERENCE INDEX

December 29, 2022

TIME	AGENDA
9:30	Executive Session
10:30	Return to Open Session
10:33	Official Call to Order
10:34	Introduction of Board Members/Attendees
10:36	Approval of Minutes
10:40	Report of Prosecution
11:02	Appointment - Bureau of Finance and Operations Annual Budget Presentation
11:09	Report of Board Counsel
11:13	Report of Board Chair

645                    11:14            Report of Board Administrator  
646  
647                    11:18            Old Business  
648  
649                    11:22            New Business  
650  
651                    11:31            Public Comment  
652  
653                    11:40            Adjournment  
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