OCCUPATIONAL THERAPY EDUCATION AND LICENSURE

NEWSLETTER

WINTER 2006-2007



COMMONWEALTH OF PENNSYLVANIA

Edward G. Rendell *Governor*

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Governor's Newsletter

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Message from the Chairwoman

by Ellen L. Kolodner, MSS, OTR/L, FAOTA

Greetings from your board! This issue of the board newsletter is designed to help demystify the working of the licensure board and to help you gain a clearer understanding of our members, roles, responsibilities, approaches and activities. We have placed a special emphasis on introducing you to the roles and responsibilities of the non-occupational therapist members of our board. Inside this issue you will find articles on the roles of the public members, board counsel, and the commissioner. In addition, there are biographical sketches of the two new professional members of the board.

During the past year, the board has studied the topic of continuing competence in great depth. In an effort to help you understand our activities and deliberations, we have included several articles in this issue that provide you with information on continuing competency. Some of our activities have included gathering feedback from constituents in Pennsylvania,

as well as examining continuing competency programs that affect occupational therapy personnel throughout the United States. I encourage you to take a look at the article by Dan Panchik to learn about our findings. The board continued our deliberations about this topic throughout 2006 and anticipates proposing regulations that will affect Pennsylvania occupational therapists during the coming months.

We welcome your feedback and questions and encourage you to contact us through e-mail at ST-OCCUPATIONAL@state.pa.us or by mail at State Board of Occupational Therapy Education and Licensure, P.O. Box 2649, Harrisburg, PA 17105-2649.

Lastly, please remember, especially as we proceed to discuss important issues that will affect your ability to practice occupational therapy in the commonwealth, all of our meetings are open to the public!

We look forward to hearing from you soon!

Role of the "Public Member" on the Board

by Arthur McVitty and Jeffrey Elliott

The "Administrative Code" of 1978, which defines and governs the licensing boards of the commonwealth, requires the presence on the boards of "public members." Specifically, it is mandated in the law that "there are to be two persons representing the *public* at large on all licensing boards." In addition, the public members of any board are forbidden from being affiliated in any way with the profession regulated by the board on which they sit. So how in the world does a public member become a public member; and what is the role of the public member, once on the board on which he or she is appointed?

To begin with, the Bureau of Professional and Occupational Affairs is a state government agency, charged with oversight and regulatory responsibilities for the licensed professionals of the commonwealth. The protection of the public is the single most important charge given the bureau by the governor and the legislature. To be asked, then nominated and appointed by the governor to serve as a member of one of the many (27) state licensing boards is an honor. We have served now for several years as the two public members on the Occupational Therapy Board, and have developed a warm and mutually respectful relationship with our occupational therapy (OT) colleagues on the board.

Since public members cannot be OT's we didn't know much about occupational therapy when we first joined the board. What you bring to the board is a different or fresh perspective, a sense of civic duty, and of course your common sense. We come from different educational and professional backgrounds than our OT colleagues. Our job on the board is to bring the public's view and objectivity to each board meeting and represent those that might one day be a recipient of OT services, thereby providing some sense of public protection and public safety. In the

Role of the Commissioner on the Board

by Basil Merenda, Acting Deputy Secretary for Regulatory Programs and Director, Bureau of Professional and Occupational Affairs

The Bureau of Professional and Occupational Affairs (BPOA) touches the lives of millions of Pennsylvanians each day. We protect the health, safety and welfare of the public from fraudulent and unethical practitioners by administering professional licensing to physicians and cosmetologists to accountants and funeral directors. In addition, the bureau provides administrative and legal support to 27 professional and occupational licensing boards and commissions.

As commissioner of the BPOA, I am responsible for administering the commonwealth's licensing boards, sitting as a voting member on disciplinary cases and policy matters for 25 of the 27 boards and signing all licenses issued by the BPOA.

My administrative duties include working with the deputy commissioner to make "the trains run on time." In BPOA's case, it means making sure license renewals, applications and inquiries are properly handled by our staff. It also involves making sure that where appropriate, reciprocal licenses requested from out-of-state individuals are properly reviewed. BPOA is also required to conduct reviews of education programs for some boards.

My duties as a voting member on 25 of the 27 licensing boards are the same duties and obligations that the professional and public members have as part of

their service on our licensure boards. I act as a judge, along with the other board members, on disciplinary hearings. I participate with the other board members in the drafting and enactment of regulations, rules and other policy initiatives. In addition, I have the responsibility of coordinating policy matters of all 27 boards for Governor Edward G.

Rendell.

I truly believe the most important thing I can do for you is to provide you with professional service – and that is my goal.

When Governor Rendell appointed me BPOA commissioner, he told me to make I truly believe the most important thing I can do for you is to provide you with professional service — and that is my goal.

BPOA and the commonwealth's 27 licensing boards more accessible, responsive and accountable to the legislature, the licensees and the public we are sworn to protect. My pledge to you is that I, as commissioner, am working to carry out Governor Rendell's charge with intelligence, vigor and effectiveness.

If I can be of any assistance, please do not hesitate to reach out and contact my office at any time.

2007 Board Meeting Dates

Jan. 12 — Harrisburg

May 18— Philadelphia

Oct. 11— Harrisburg

Dec. 7— Harrisburg

Role of the Board Counsel

by Herb Abramson, Senior Counsel-in-Charge

The cover page of every agenda for board meetings identifies two categories of attorneys who are assigned to the board: board counsel and board prosecutor. The board prosecutor, as the name suggests, prosecutes alleged violations of the Occupational Therapy Practice Act and board regulations, whether the violations are committed by licensees or unlicensed persons. When a person is formally charged with a violation of the Act by the Commonwealth of Pennsylvania, the prosecutor has reviewed a complaint and the results of an investigation, made a probable cause determination that the person has committed a violation of law, and issued a charging document, generally an order to show cause, reciting factual allegations and the provisions of law and regulation that the prosecutor believes have been violated. The prosecutor will represent the commonwealth at a formal hearing in which the prosecutor has the burden of proving that the person charged (the respondent) has actually committed the violation. The respondent has the opportunity to present a case to contest the charges or to present mitigating evidence. Respondents may, of course, obtain their own legal representation. Often the prosecuting attorney and the respondent will enter a settlement agreement to resolve the case without going to a formal hearing. The settlement agreement becomes the final decision in the case only if the board adopts it by vote at a board meeting.

The board counsel plays no role in prosecuting disciplinary cases, although counsel has a role in disciplinary cases. Board counsel are the legal advisors assigned to the various licensing boards and commissions in the Bureau of Professional and Occupational Affairs. Board counsel, as the name suggests, advise the board and the administrative staff of the board not only about the Occupational Therapy Practice Act and the board's regulations, but also about various other laws and regulations that have an impact on the board and its operations. A few of these laws and regulations include the Administrative Procedures Act, the General Rules of Administrative Practice and Procedures, the Regulatory Review Act, the Sunshine Act, the law and regulations of other boards and departments, constitutional issues, the large body of case-law made by the appellate courts, etc.

The board makes use of hearing examiners to hold disciplinary hearings and issue proposed adjudications. In these matters, board counsel will transmit the record of a case that has been heard by a hearing examiner to the board so that members will have the opportunity to review the entire record, including the transcript of the hearing, before the next board meeting. Counsel will advise the board on pending legal issues and will be present during the board deliberations of the case in executive session at a board meeting and will draft the final adjudication and order in accordance with the board's instruction and in accordance with the Administrative Procedures Act. The board's deliberations in executive session remain confidential; the adjudication and order that the board has directed counsel to draft will become public when it is adopted by the board as its final decision in the case. The adjudication and order that is adopted by a formal vote of the board at a meeting must establish the factual and legal bases for the board's decision, evaluate the evidence and arguments and explain how the board reached its decision. If the decision in the case is adverse to the respondent and the respondent appeals the case to the Commonwealth Court, board counsel will represent the board in the appeal, transmitting the record to the court, drafting the appellate brief, and arguing the case to the court.

Board counsel also assist the board in drafting regulations and shepherding the regulations through the complex regulatory review process. While the board determines the content of its rulemaking, it is the job of board counsel to draft the rulemaking and supporting documents in a format that is acceptable to the *Pennsylvania Code*, where it will appear in its final form. Board counsel, after consulting with the board, will respond to questions and comments pertaining to rulemaking that may come from the Department of State, the Governor's Office of Policy and Planning, the legislative oversight committees, the Office of Attorney General, the Independent Regulatory Review Commission, licensees and members of the public.

In addition to the disciplinary, appellate, and regulatory work, board counsel perform a variety of other tasks. On any given day, board counsel, who

Meet Our Newest Board Members

Andrea L. Mowen, OTR/L

Andrea Mowen, OTR/L, has 20 years experience as a clinician. Since she graduated from Elizabethtown College in 1986, her passion for occupational therapy spans a broad spectrum. She has worked in a variety of settings including acute care, outpatient therapy, skilled nursing facilities, inpatient rehab, behavioral health, and home health care. Early in her career, Andrea was on the faculty at Penn State Mont Alto as a part-time instructor for the OTA program. Delivery of acute care occupational therapy holds her focus currently. She has been and continues to be instrumental in the development of total joint pathways and programs. As Clinical Manager for inpatient therapy services at the Chambersburg Hospital, she provides oversight for Medical-Surgical, Rehabilitation, and Behavioral Health for physical therapy, occupational therapy, and speech services.

Outside of the direct patient care, Andrea extends her services to occupational therapy professional associations. She served as POTA conference treasurer in 1989, and was later elected to POTA District I conference treasurer in 2001. Andrea understands the value of collaboration among occupational therapy practitioners, motivating her to co-chair the POTA conference in 1995, 1998, 2001, and 2004. Currently she facilitates professional cooperation as part of the POTA Central Conference Committee. She also presents at these conferences as well providing education for local nursing homes, hospitals, and community organizations.

Andrea extends her dedication and skills beyond the clinic. She has served in the past on the Lutheran Home Health Care Agency Advisory Board and currently serves on the Biblical Education Center board.

Andrea, her husband Allen and their two daughters live in Chambersburg, which is located in South Central

PA. Family is her priority so she is involved in many of her daughter's activities. Andrea coaches softball, leads a children's bell choir, and is involved in school and church activities.

Daniel Panchik, M.S., OTR/L

Daniel Panchik is an Occupational Therapist with more than 17 years of experience. Presently he is an Assistant Professor in the Occupational Therapy Department at Elizabethtown College. Past professional roles include Assistant Professor of Occupational Therapy at Saint Francis University and clinical Occupational Therapist at the Milton S. Hershey Medical Center, The Penn State University Hospital. Daniel has presented at state conferences on a variety of topics including management of Lymphedema and management of the acutely burned hand.

Daniel is pursuing his Doctor of Science degree in Hand Rehabilitation from Rocky Mountain University of Health Professions, Provo, Utah. He holds a M.S. in Occupational Therapy from the Medical College of Virginia and a B.S. degree in Rehabilitation Education from Indiana University of Pennsylvania.

Daniel's interests include Adult Rehabilitation, Lymphedema, and Hand Rehabilitation. He is certified as a Lymphedema Therapist by the Lymphology Association of North America and holds certification in Adult Neurodevelopmental Techniques.

Daniel resides with his wife Ann and their son Alek in Hershey, Pennsylvania.

Continuing Competence

Andrea Mowen, OTR/L and Deborah Zelnick, MS, OTR/L Members, State Board of Occupational Therapy Education and Licensure

Pennsylvania does not currently require proof of continuing competence for licensure renewal. During the past year, the State Board of Occupational Therapy Education and Licensure has been reviewing and studying this subject. The Occupational Therapy Practice Act states in section 15(a) that the board may establish additional requirements for license renewal designed to assure continued competency of the applying occupational therapist.

As a practicing occupational therapist or occupational therapy assistant, what does continued competency mean to you? As occupational therapists, the authors personally define continued competency as the application of knowledge, skills, and behaviors that are needed to fulfill organizational, departmental, and work setting requirements under the varied circumstances of the real world. We view competency assessment as an ongoing individualized process of professional growth and development. This personalized assessment should identify and document opportunities and experiences related to the ongoing learning needed to continuously improve the

quality of actions in our roles as professionals.

Assessment of continued competence is important in order to protect consumers of occupational therapy services and can also support the monitoring of practice outcomes. A continued competency system can also be used to promote individual accountability for continued learning. Competency assessment should include strategies for measuring critical thinking skills, especially those surrounding professional values and beliefs.

The State Board of Occupational Therapy Education and Licensure plans to make continuing competency assessment a dynamic multidimensional process in which the occupational therapy practitioners document their efforts to develop and maintain the professional occupational therapy knowledge, performance skills, and interpersonal abilities. Future newsletters will provide additional information on how continued competency of occupational therapy practitioners will be assessed and measured in Pennsylvania.

REMINDER Renew Your License Online!

Go to the Department of State's Web site at www.dos.state.pa.us and click on

Renew a Professional License.

Follow the instructions to renew your license online.

You are eligible to renew online if:

- · You are currently in your license renewal period
- · Your license is delinquent by no more than 30 days

First-time users will need the following information:

- · Pennsylvania License Number
- · Registration Code
- · Current mailing address
- · Credit Card information
- · E-mail address

Continuing Competence Survey

by Daniel Panchik, M.S., OTR/L

One hundred and seventy occupational therapists and occupational therapy assistants across Pennsylvania participated in a survey conducted by the State Board of Occupational Therapy Education and Licensure. The goal of the survey was to ascertain the opinions of currently licensed practitioners regarding continuing competency. Practitioners were asked to participate by a distribution of the survey at the POTA annual conference and web page postings. Licensees were surveyed from Oct. – Dec., 2005. A great majority of the participants in this study (62%) indicated that they felt it would be beneficial if the state required continuing competence as a part of the licensure renewal requirements. Moreover, the majority of respondents felt that continuing education enhances the delivery of OT services (92%) and increases consumer confidence (67%).

The majority of the participants (52%) indicated that they attended 15 hours or more of continuing education during the past year. Licensees were asked to rate examples of practice-related continuing competence activities from most desirable to least desirable. The top three most desirable activities were attending or giving presentations, attending or participating in professional meetings and activities, and specialty certifications. The least desirable activities noted were graduate/undergraduate coursework, jurisprudence examination (pertains to OT law), and grant writing.

The survey asked participants to rate the following examples of practice related continuing competence activities according to their personal preference.

	Most Desirable	Desirable	Average	Not Desirable	Least Desirable
Attending or giving presentations	37%	42%	16%	4%	1%
Professional meetings and activities	28%	36%	31%	4º/o	1%
Specialty certification	16%	32%	36%	10%	6%
Mentoring activities	15%	34%	37%	9%	4%
Independent study	13%	43%	35%	8%	1%
Professional development					
tools/ self assessment	12%	38%	37%	8%	4%
Holding office with national					
or state organization	8%	20%	24%	24%	24%
Publishing book chapter or article	7%	19%	24%	23%	27%
Graduate or undergraduate coursework	5%	25%	32%	19%	19%
Jurisprudence exam					
(pertains to OT laws)	3%	5%	35%	25%	32%
Grant Writing	2%	11%	24%	29%	34%

Thanks to all who participated in this study.

OT/OTA Supervision: Know Your Licensure Facts!

by Pamela E. Toto, MS, OTR/L, BCG, FAOTA PA Occupational Therapy Licensure Board Member

The relationship between an occupational therapist (OT) and occupational therapy assistant (OTA) has the potential to be a rewarding partnership. Through appropriate collaboration and skilled occupational therapy intervention, OT/OTA teams can serve a greater population of persons. In addition to ethical considerations related to competency, occupational therapy practitioners must also be mindful of professional obligations delineated through licensure guidelines. For the OT/OTA team, appropriate supervision is one such guideline that must be considered in the provision of occupational therapy services. The following two case stories highlight and reflect current Pennsylvania Occupational Therapy Minimum Standards of Practice:

Case 1:

Jane is an occupational therapy assistant providing services in an inpatient pediatric rehabilitation center. She has worked there for 10 years and has been partnered with Sue, an occupational therapist and new graduate, as an OT/OTA team for the past six months. Jane is used to working independently, having worked with the same occupational therapist for the eight years prior to this new partnership with Sue. Jane finds herself frustrated with the lack of freedom that Sue is allowing her in her practice — Sue requests short daily meetings and wants to observe Jane's actual treatment in the clinic at least once every week. Additionally, Sue has restricted Jane from using some modalities for treatment with her clients who have hand injuries, citing that Jane cannot use the modalities because she, as a supervisor, lacks the competency in these procedures to effectively supervise Jane's performance.

The Pennsylvania Code Section 42.22 lists the responsibilities of the OT and OTA as related to supervision. Section 42.22(d) notes that a supervisor must have supervisory contact with the OTA at least 10% of the time worked by the assistant in direct patient care. The OT is permitted to select several different strategies for meeting this supervision re-

quirement and these strategies include face-to-face contact as well as observation of actual occupational therapy treatment. In the case of Sue and Jane, Sue's request for type and frequency of supervision is not only within her rights as the supervising occupational therapist, but is her professional obligation under the code.

With regard to competency in performance of specific interventions during the provision of occupational therapy services, Sue is correct in recognizing that she cannot ethically supervise Jane to perform a service in which she herself is not competent. However, Section 42.22(f) would allow Sue to assign supervisory duties to a competent substitute occupational therapist who could oversee Jane's use of the modalities until Sue is able to garner the skills and education necessary for competency in use and supervision of these modalities in occupational therapy treatment.

Case 2:

Tom is an occupational therapy assistant hired to work in a skilled nursing facility. He is supervised by Mary, an occupational therapist whose job responsibilities require her to regularly travel to four separate skilled nursing facilities in the area. Tom recognizes that Mary is quite busy and does his best to prepare items for Mary's review when she in the building. However, the latest influx of rehabilitation clients to their facility has nearly exceeded their treatment capacity. Mary has begun to request that Tom "help" with more and more of the evaluation and goal updates and has requested that Tom be in charge of determining all of the discharges since he is the one actually providing treatment to the residents. In the past month, Mary has been coming to the facility in the late afternoon hours, after Tom has gone home for the day, and therefore their communication has only been through Post-it notes.

An OTA has the right to expect supervision and Continued on page 9

OT/OTA Supervision

respect for the scope of permissible OTA practice as per Pennsylvania Code Section 42.22. Section 42.22(a) recognizes that it is the duty of the OT to perform the evaluation, re-evaluating client status and updating goals as necessary and determining program termination. Section 42.22(c) does note that a competent OTA may be assigned evaluation duties related to standardized assessments and activity of daily living (ADL) evaluations but the overall responsibility and skilled decision-making remains the role of the OT. In Tom and Mary's case, Mary must recognize that it is out of Tom's scope of practice to independently complete unassigned portions of the evaluation, update goals and decide when a client is ready for discharge from skilled OT. Additionally, Tom is right to be worried about not receiving adequate supervision. As noted in the previous case scenario, an OTA must receive at least 10%

supervisory contact for hours worked in direct patient care. Section 42.22(d) additionally states that these supervisory contact hours must include a combination of face-to-face, telephone and written communication for each calendar month. Thus, the current setup with Mary providing services at the facility when Tom is not present does not meet the code's supervision requirements.

Appropriate knowledge and monitoring of OT/ OTA supervision is the responsibility of both the OT and OTA in occupational therapy practice.

If you have questions or concerns regarding OT/OTA supervision requirements, check out the Commonwealth of Pennsylvania, Pennsylvania Code, Chapter 42 at www.pacode.com/secure/data/049/chapter42/chap42toc.html.

Public Member

Continued from page 2

beginning of our service, we knew nothing of the OT licensure process, the notices that are sent (and which cannot legitimately be ignored without sanction) regarding renewal of licensure, what state and national associations exist to provide OT's continuing education and professional networking opportunities, what constitutes [infrequent for the OT occupation] misconduct within the profession, and generally what are the important issues being talked about and of concern within the profession.

Our role is to be objective, and it is the job of the public members to ask a lot of questions. We therefore are the "Why?" and "How come?" people on the board. We bring our life experiences, experiences within our own occupations and professions, our sense of fair play, and our analytical skills to board meetings. A lot of time at board meetings is spent discussing issues in two areas:

- 1) possible changes in the rules and regulations governing occupational therapy; and
- 2) determining disciplinary action, if any, to be taken for those who have violated the rules.

It is natural that the non-public members of the board, all of whom are OT's, approach both areas as to how the board's decision might affect OTs personally in the work place. The public members view the issues as to how a recipient of OT professional services will be affected, or would want to be treated. After a few meetings, our OT colleagues actually started asking for our opinions or perspectives about issues! We are often asked whether a position proffered seems too harsh, or is too parochial and should be broadened, by board members who recognize that our perspective of how the profession conducts itself may be relevant and helpful. For example, it's been interesting to discuss and study mandatory continuing education over the past many months, and to watch as the board evolves to a consensus and ultimate determination; and to feel a part of it!

Disciplinary Actions

Following are the disciplinary actions taken by the board from Nov. 2004 through Sept. 2006. Each entry includes the name, certificate or registration number (if any), and last known address of the respondent; the disciplinary sanction imposed; a brief description of the basis of the disciplinary sanction and the effective date of the disciplinary sanction.

Every effort has been made to ensure that the following information is correct. However, this information should not be relied on without verification from the Prothonotary's Office of the Bureau of Professional and Occupational Affairs. One may obtain verification of individual disciplinary action by writing or telephoning the Prothonotary's Office at P.O. Box 2649, Harrisburg, PA 17105-2649; (717) 772-2686. Please note that the names of persons listed below may be similar to the names of persons who have not been disciplined by the board.

Matthew Anthony Lenhard, of Philadelphia, Philadelphia County, was granted a license to practice Occupational Therapy subject to three years of probation. (11-30-04)

Cassandra Catapano, license no. OC007377L, of Landsdowne, Delaware County, was required to pay a \$1,000 civil

penalty. Catapano practiced as an occupational therapist while her license was expired. (06-10-05)

Beverly R. Weinberg, license no. OC-005777L, of Collegeville, Montgomery County, was assessed a \$1,000 civil penalty based on findings she practiced occupational therapy on an expired license. (09-20-06)

Check www.dos.state.pa.us for updated disciplinary action reports.

UNETHICAL OR UNLICENSED ACTIVITY

If you believe the practice or service provided by a licensed professional to be unethical, below an acceptable standard or out of the scope of the profession; or if you are aware of unlicensed practice, please call the

Bureau of Professional and Occupational Affairs complaints hotline at:

In Pennsylvania: 1-800-822-2113 Out of State: 1-717-783-4854

A complaint form is available on the Department of State's Web site: www.dos.state.pa.us

Role of the Board Counsel

Continued from page 4

generally represents more than one licensing board, may review a license application that suggests that the board may be authorized to deny a license. An application from someone with a criminal record, for example, will come to board counsel for preliminary review and then be placed on the agenda of the next board meeting for review. If a bill is proposed in the General Assembly that affects the board, counsel will be asked to draft a legislative analysis. Board counsel will also respond to inquiries of legislators on matters pertaining to occupational therapy.

Frequently, questions about occupational therapy from licensees and the public are referred to board counsel. Board counsel will inform the inquirers about the Occupational Therapy Practice Act and the regulations of the board, but will not venture a legal opinion, that is, an opinion pertaining to the legality of an inquirer's situation. Board counsel, like the board, does not have statutory authority to issue advisory opinions, that is, opinions outside of litigation or the text of regulations, regarding the legality of a proposed or alleged situation. Board counsel can only express opinions of the board in its final decisions and through the text of its regulations that the board has promulgated.

On any day, board counsel will be involved in several if not all of these activities.

The Right to Know Law and Home Addresses

The Bureau of Professional and Occupational Affairs is sensitive to its licensees' concerns about personal privacy. However, the Pennsylvania Right-to-Know Act, 65 P.S. § 66.1, mandates release of information contained in a "public record" stored by that agency if a member of the public requests it.

The bureau will take all reasonable steps to safeguard personal information contained in your licensure records. We realize that many of you use your home address on the licensure records maintained by the bureau. However, given the uncertainty over what the Right-to-Know Act requires, neither the bureau nor the board that issues your license can guarantee the confidentiality of the address shown on your licensing record. Therefore, we recommend that if you have a personal security concern, you might want to consider what many of our licensees have already done: use a business address or box number as the official address on licensure records.

Also, with the arrival of the License 2000 computer system, you may indicate to the board an address for release to the public that may be different from your home address.

To further protect your privacy and identity, the bureau will only accept a request to change a licensee's address if it is submitted in writing and includes the licensee's Social Security number, license number and the old and new addresses.



P.O. Box 2649 Harrisburg, PA 17105-2649 PRSRT STD U.S. POSTAGE PAID DOS - BPOA

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