STATE OF CALIFORNIA MEDICAL BOARD OF CALIFORNIA SACRAMENTO Dec 11 20 18 BY RICHARDS ANALYST

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11	BEFORE THE MEDICAL BOARD OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA			
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14.	In the Matter of the Accusation Against:	Case No. 800-2016-022096		
15	JAMES MATTHEW CROWLEY RYAN, M.D.	ACCUSATION		
16	10339 Hitching Post Way Santee, CA 92071-1657			
17 18	Physician's and Surgeon's Certificate No. A 136356,	1		
19	Respondent.			
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21	Complainant alleges:			
22	PAR'	<u>l'Ies</u>		
23	Kimberly Kirchmeyer (complainant) brings this Accusation solely in her official			
24	capacity as the Executive Director of the Medical Board of California (Board).			
25	2. On or about May 23, 2015, the Board	l issued Physician's and Surgeon's Certificate		
26	No. A 136356 to James Matthew Crowley Ryan, M.D. (respondent). The Physician's and			
27	Surgeon's Certificate was in full force and effect at all times relevant to the charges brought			
28	herein and has expired on January 31, 2017.			
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JURISDICTION

- 3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.
 - 4. Section 118 of the Code states, in pertinent part:

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"(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

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- 5. Section 2227 of the Code states, in pertinent part:
- "(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:
 - "(1) Have his or her license revoked upon order of the board.

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- 6. Section 2228 of the Code states, in pertinent part:
- "The authority of the board or the California Board of Podiatric Medicine to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

"

"(c) Restricting or limiting the extent, scope, or type of practice of the license
including requiring notice to applicable patients that the licensee is unable to perform
the indicated treatment, where appropriate.

7. Section 2234 of the Code, states, in pertinent part:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

- "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.
 - "(b) Gross negligence.
- "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

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- 8. Section 726 of the Code states, in pertinent part:
- "(a) The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division or under any initiative act referred to in this division.

"…"

- 9. Section 2242 of the Code states, in pertinent part:
- "(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct.

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10. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct."

FIRST CAUSE FOR DISCIPLINE

(Sexual Abuse, Misconduct, or Relations with a Patient)

11. Respondent has subjected his Physician's and Surgeon's Certificate No. A 136356 to disciplinary action under sections 2227 and 726, as defined by 726, subdivision (a), of the Code, in that he engaged in an act of sexual contact with Patient A, as more particularly alleged hereinafter:

Patient A¹

- 12. On or about March 2, 2016, Patient A had her first psychiatric appointment with respondent at the Achieve Medical Center which is a medical group made up of multiple physicians. During her appointment, they discussed her diagnosis, medication, and her marital issues. At the end of the visit, respondent asked Patient A if she was the patient of another physician in the group. When she told him that she did not have an assigned physician, he remarked he would be keeping her all to himself. He then gave Patient A his private cell phone number and asked her to come back in one week.
- 13. On or about March 9, 2016, Patient A had a follow up appointment with respondent regarding her medication. During her appointment, Patient A and respondent discussed her marriage problems. Respondent then voluntarily shared with her details about his personal marriage problems and his personal issues in raising his daughter. When Patient A confessed to him about an extramarital affair she had, respondent told her that she should have more affairs.
- 14. Towards the end of the session, respondent told Patient A that she would be snatched up in no time, that she has a beautiful smile, and that she needed to leave her husband. When Patient A was leaving, respondent gave her a tight hug. This visit lasted for about an hour.

¹ The patients referenced in this document are designated as "Patient A," "Patient B," and "Patient C," in order to protect their privacy interest. Complainant's discovery that will be timely provided to respondent after the Board's filing of this Accusation will clearly inform him as to which specific patients of his these refer.

- 15. On or about March 10, 2016, Patient A sent respondent a text message to ask if she could take some Ativan.² Respondent asked Patient A to give him a call. When she called, he instead talked about her leaving her husband and how her husband was the cause of her issues. This phone call lasted about twenty-four (24) minutes.
- 16. Between March 11 and March 14, 2016, respondent and Patient A exchanged text messages. In one text message, dated March 14, 2016, respondent wrote her the following: "Sorry... just saw this... I'll prescribe a bottle of happiness...what flavor would you like?;)."
- 17. On or about March 16, 2016, Patient A went to her third appointment with respondent. He began the session by telling Patient A that her husband had called the office to complain about him being inappropriate. Respondent then talked about her leaving her husband. Respondent told her what a beautiful person she is and then asked her if he could hold her hand.
- 18. When she replied, "Yes," respondent held her hand, leaned in, told her that she is beautiful, that she has beautiful lips, that she needs to leave her husband, and that he loved how curvy she is.
- 19. At the end of this session, respondent extended his arms out to request a hug. When they hugged, respondent looked down at Patient A and kissed her on the lips. While they kissed, he had his arms around her waist. He told her that he loved her lips and body, that she was beautiful, and that he did not want her to leave. The appointment lasted longer than one hour.
- 20. Later in the evening, Patient A went back to the clinic to see her therapist, M.H. Upon her arrival, she saw respondent who asked if she was there to see him. She told him she was there to see M.H. After her appointment with M.H., respondent came out to the public waiting area and escorted her into his office. While walking towards his office, he said out loud their need to go over her medication. Once they walked in and the door was closed, he told her he had to say that, so that no one would get suspicious. He then grabbed Patient A by her waist and started to kiss her. He told her to keep quiet, so that no one would hear them.

² Ativan is a brand name for Lorazepam, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. It belongs to a group of drugs called benzodiazepines.

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- 21. After they stopped kissing, respondent went to sit behind his desk. He told her that he was behind on his charting. When she asked if he could continue being her doctor and help her with her medication, he stated he will give her whatever she wanted. He then continued kissing her and the appointment lasted for an hour.
- 22. On or about March 21, 2016, Patient A went to see respondent at the clinic because she was not feeling good. On this visit, respondent hosted Patient A in an office different than the one in which he provided his previous four (4) sessions. This new office was located in the corner, was more secluded, and had a couch in it.
- 23. When she entered the new office, she told him that she has not been feeling well because of leaving her husband and that she was now living with her sister. Patient A had anxiety and wanted to discuss her medication. Respondent instead told her that she did not give him a hug and walked over to her. He then gave her a hug and a kiss. While they kissed, respondent held her by the waist, moved his hands up to her breasts, and rubbed her breasts.
- 24. Thereafter, Patient A sat down on the couch and respondent sat in his chair that was pulled up next to the couch. While sitting next to her, he rubbed her thighs, opened her shirt, and looked down her shirt. He lifted up her shirt and exposed her bra. He again rubbed Patient A's breasts. He then suddenly got up and walked over to the door to lock it. He returned and rubbed her breasts, thighs, and her vagina on the outside of her jeans. He continued to fondle her breasts and vagina for a few minutes. He told her she is beautiful and that he loved touching her.
- 25. When Patient A told respondent that she needed her medications increased and needed something for her anxiety, he told her he would give her Ativan and Xanax,³ but that he could not give both medications on the same date, and that he will put two (2) different dates on these medications. When she said she will pick up the second prescription on a subsequent visit, respondent told her he wanted her to return in two (2) days. Respondent then resumed kissing Patient A, lifted up her blouse, pulled down her bra, and sucked on her breasts and nipples. The session lasted for an hour and a half.

³ Xanax is a brand name for alprazolam (a benzodiazepine), a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

- 26. At the end of the session, they exchanged their emails. On the same night, Patient A emailed respondent a picture of herself dressed in a lowcut bra. In his email back to her, respondent stated, "Looking amazing!" He did not tell her that sending half-naked photographs of herself to her psychiatrist was an inappropriate thing.
- 27. On or about March 22, 2016, when respondent and Patient A spoke on the phone, he told her that her husband called the office to make a formal complaint and that the owners of the clinic were going to speak with respondent and the malpractice insurance. When Patient A called respondent and left him a message thereafter, he did not return her phone call.
- 28. On or about March 24, 2016, S.I., M.D., the Medical Director of Achieve Medical Center ("Medical Director") met with respondent to discuss the formal complaint submitted by Patient A's husband. The Medical Director instructed respondent not to have any more contact with Patient A and informed him that her case would be transferred to another physician.

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence)

29. Respondent has further subjected his Physician's and Surgeon's Certificate No.

A 136356 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he was grossly negligent in his care and treatment of Patient A, Patient B, and Patient C, as more particularly alleged hereinafter:

Patient A

30. Paragraphs 12 through 28, above, are hereby incorporated by reference and realleged as if fully set forth herein.

Patient B

31. On or about March 25, 2016, Patient B went to her first appointment with respondent. Respondent greeted Patient B with a hug which she felt was "too long" and uncomfortable. She told respondent then that she did not like being touched due to having been previously a victim of sexual assault. During the appointment, Patient B cried and shared with respondent the details of her history as a victim of sexual assault and her panic attacks.

- 32. On or about April 28, 2016, Patient B had her second appointment with respondent. Patient B sat on the couch and respondent sat in his chair. Respondent sat very close to her and their knees were touching. As they began to talk, he reached out, took her hands between his, and rubbed them softly. Patient B felt uncomfortable with his touch, so she began using her hands as if to gesture while speaking in order to get her hands out of his. Soon, respondent began rubbing Patient B's thighs with his hands. While rubbing them, he told her, "You're a good person, I want to make you feel better." He was rubbing the inside and outside of her thigh from knee to high-mid thigh.
- 33. When Patient B asked respondent about her medication options for her panic attacks and anxiety, he responded, "Honey, I'll prescribe whatever you want," while holding her hand with one hand and rubbing her arm with the other.
- 34. Prior to the first appointment, Patient B had received three (3) months' supply of Clonazepam⁴ at 6 mg per day (270 pills of 2 mg dosage) on or about February 20, 2018, and 30 pills of 10 mg Diazepam⁵ on or about February 29, 2016, from M.W., M.D., respondent's colleague at the clinic. On or about March 9, 2016, respondent, during coverage for his colleague, M.W., M.D. and prior to his first appointment with Patient B, prescribed her Lorazepam⁶ (90 pills of 1 mg dosage). There was no progress note to document the rationale for adding a third benzodiazepine⁷ to her regimen. The same Lorazepam was refilled on April 7,

⁴ Clonazepam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. It is an anti-anxiety medication in the benzodiazepine family.

⁵ Diazepam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

⁶ Lorazepam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

⁷ Benzodiazepine is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

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2016, and Zaleplon⁸ (30 pills of 10 mg dosage), a benzodiazepine-like hypnotic, was added to the prescription by respondent with two (2) additional refills. On April 20, 2016, respondent added Alprazolam⁹ (28 pills of 1 mg dosage), and one (1) week later on April 27, 2016, he additionally prescribed Patient B Alprazolam (60 pills of 2 mg dosage).

- 35. During the second appointment on April 28, 2016, respondent randomly talked about himself and his exercise routine. He showed Patient B pictures of himself without a shirt on. He told her she did not need to work out because she had a perfect body.
- 36. At the end of the session, respondent told her to give him a hug. She briefly hugged him and pulled away, but he pulled her back in and rubbed her back. She made several attempts to push him away, but he continued to pull her in towards him. Patient B felt frozen with fear. Respondent's hug lasted for about a minute and a half. Patient B's session lasted for an hour even though it was scheduled for only fifteen (15) minutes.
 - 37. On the next day, Patient B told her husband and her friend about what happened.
- 38. Three (3) days later, on or about May 2, 2016, Patient B went to the Chula Vista Police Department (CVPD) to make a report of respondent's behavior during her appointment. Soon thereafter, respondent was placed on an administrative leave at his clinic.
- 39. On or about May 8, 2016, respondent left a handwritten birthday note for his wife on a piece of paper in which he stated, in summary: (1) that he wanted to tell her something that cannot be discussed electronically, (2) that he provides psychiatric services to the secret agents of the CIA, (3) that he was being mistreated by the psychiatry community, (4) that he was trying to pull strings with the Medical Board, (5) that Patient C is "the highest rated assassin" of the government, (6) that respondent is "the best psych" that the U.S. government has and "the only one [available] to fix their agents," (7) that he was required to legally change his last name because his connections to the medical profession have to be severed, and (8) that he will have

⁸ Zaleplon is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

⁹ Alprazolam is a benzodiazepine, a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

another identity which he cannot disclose to her. Finally, he added in his note to his wife that she should not discuss what he wrote to her in any text or email.

40. Afterwards, respondent moved out of California to Arizona to live and work.

Patient C

- 41. In the spring of 2016, Patient C had an appointment with a female psychiatrist at respondent's clinic. When Patient C arrived for her appointment, she was instead seen by respondent. Respondent gave her a prescription for Prazosin, ¹⁰ Zoloft, ¹¹ and Xanax. Respondent and Patient C exchanged phone numbers. About one month after their appointment, respondent and Patient C started a dating relationship that lasted for about six (6) months. During their relationship, respondent helped Patient C purchase a motorcycle by co-signing her loan for the motorcycle. He also paid around \$1,200 for her motorcycle parts.
- 42. Between February 2016 and January 2017, respondent wrote nine (9) prescriptions, for Patient C, for controlled substances including Adderall, Alprazolam, and Vyvanse, which included a period of time after the end of Patient C and respondent's dating relationship:

Date	Controlled Substance	Amount
2/27/2016	7/2016 Alprazolam .5 mg	
3/11/2016	Adderall 20 mg	60 pills

¹⁰ Prazosin is a sympatholytic medication that is used to treat high blood pressure, anxiety, and posttraumatic stress disorder (PTSD).

¹¹ Zoloft is a brand name for sertraline (an antidepressant of the selective serotonin reuptake inhibitor class), which is used to treat depression, obsessive-compulsive disorder, panic disorder anxiety disorders PTSD and premenstrual dysphoric disorder

disorder, anxiety disorders, PTSD, and premenstrual dysphoric disorder.

12 Adderall is a brand name for dextroamphetamine and amphetamine, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. It is an amphetamine salts used for attention-deficit hyperactivity disorder and narcolepsy.

¹³ Alprazolam is a benzodiazepine, a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

¹⁴ Vyvanse is a brand name for lisdexamfetamine, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

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4/1/2016	Vyvanse 40 mg	23 pills
4/1/2016	Vyvanse 40 mg	7 pills
4/18/2016	Adderall 20 mg	60 pills
4/29/2016	Adderall 20 mg	60 pills
4/30/2016	Alprazolam 1 mg	30 pills
1/30/2017	Alprazolam 1 mg	30 pills
1/30/2017	Adderall ER 20 mg	60 pills

- 43. There were no progress notes by respondent to justify these prescriptions. During her sworn statement at a deposition on a later date, Patient C stated she had no knowledge of how any of these medications were prescribed to her.
- 44. During the period of above prescriptions, respondent's wife found in his room a receipt for Vyvanse, prescribed for Patient C by respondent.
- 45. The Controlled Substance Utilization Review and Evaluation Systems (CURES) report for respondent from November 9, 2014 to November 9, 2017, shows respondent received prescriptions for Amphetamine Salt Combo including for Adderall.¹⁵
 - 46. Respondent did not maintain any medical records of Patient C.

Gross Negligence

- 47. Respondent committed gross negligence in his care and treatment of <u>Patient A</u>, which included, but was not limited to, the following:
 - (1) Committing sexual misconduct by engaging in sexual contact with Patient A;
 - (2) Engaging in telephonic, email, and/or text message correspondence with sexual overtones with Patient A; and
 - (3) Advising Patient A to have extramarital affairs while engaging in (1) and (2).

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¹⁵ Adderall is a brand name for dextroamphetamine and amphetamine, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. It is an amphetamine salts used for attention-deficit hyperactivity disorder and narcolepsy.

- 48. Respondent committed gross negligence in his care and treatment of <u>Patient B</u>, which included, but was not limited to, the following:
 - (1) Violating Patient B's boundaries by ignoring her express request that he not touch her because of her history as a victim of sexual assault, and rubbing her hands, her back, and her inner upper thighs close to her groin area;
 - (2) Engaging in other unprofessional behaviors by showing Patient B photos of himself without a shirt on for no medical reason and stating, "Honey, I'll prescribe whatever you want," while holding her hand and rubbing her arm;
 - (3) Excessively prescribing multiple high-dose benzodiazepines to Patient B without a scientific rationale; and
 - (4) Failing to document with progress notes his patient care and prescription of controlled substances for Patient B, or alternatively, taking from the clinic and destroying Patient B's medical records.
- 49. Respondent committed gross negligence in his care and treatment of <u>Patient C</u>, which included, but was not limited to, the following:
 - (1) Prescribing controlled substances to Patient C without any diagnostic rationale or by leaving progress notes to justify the prescriptions on multiple occasions; and
 - (2) Diverting for self-use, the controlled substances he prescribed for Patient C.

THIRD CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

- 50. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 136356 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he was repeatedly negligent in his care and treatment of Patient A, Patient B, and Patient C, as more particularly alleged in paragraphs 12 through 49, above, and which are hereby incorporated by reference and realleged as if fully set forth herein.
- 51. In addition to the above, respondent committed negligent acts in his care and treatment of Patient C, which included, but was not limited to, the following:

(1) Dating Patient C, a former patient, a month after the alleged end of physicianpatient relationship.

FOURTH CAUSE FOR DISCIPLINE

(Prescribing Without Proper Examination)

52. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 136356 to disciplinary action under sections 2227 and 2234, as defined by section 2242, of the Code, in that he prescribed, dispensed, or furnished dangerous drugs as defined in section 4022 without an appropriate prior examination and a medical indication, in his care and treatment of Patient B and Patient C, as more particularly alleged in paragraphs 31 through 46 and paragraphs 48 and 49, above, and which are hereby incorporated by reference and realleged as if fully set forth herein.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate and Accurate Medical Record)

53. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 136356 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the Code, in that he failed to maintain adequate and accurate records regarding his care and treatment of Patient B and Patient C, as more particularly alleged in paragraphs 31 through 46 and paragraphs 48 and 49, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

54. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 136356 to disciplinary action under sections 2227 and 2234, of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 11 through 53, above, which are hereby incorporated by reference and realleged as if fully set forth herein.

PRAYER

WHEREFORE, complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

- 1. Revoking or suspending Physician's and Surgeon's Certificate No. A 136356, issued to respondent James Matthew Crowley Ryan, M.D.;
- 2. Revoking, suspending or denying approval of respondent James Matthew Crowley Ryan, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code, and advanced practice nurses;
- 3. Ordering respondent James Matthew Crowley Ryan, M.D. to pay the Medical Board of California the costs of probation monitoring, if placed on probation; and
 - 4. Taking such other and further action as deemed necessary and proper.

DATED: December 11, 2018

KIMBERLY/KIRCHMEYER

Executive Director

Medical Board of California

Department of Consumer Affairs

State of California Complainant

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