

Notice of Meeting/Workshop Hearing

[DEPARTMENT OF HEALTH](#)
[Board of Medicine](#)

The **Boards of Medicine and Osteopathic Medicine's Joint Meeting on Health History Questions** announces a public meeting to which all persons are invited.

DATE AND TIME: Thursday, October 1, 2020, beginning at 1:45 PM EST.

PLACE: Conference Call In #: 1 (888) 585-9008, Conference Room: 432-162-565

GENERAL SUBJECT MATTER TO BE CONSIDERED: General business of the boards. Board meetings may be cancelled prior to the meeting date. Please check the Board Web Site at www.FLBoardofMedicine.gov for cancellations or changes to meeting dates or call the Board of Medicine at (850) 245-4131 for information.

A copy of the agenda may be obtained by contacting: Board of Medicine at <https://flboardofmedicine.gov/meeting-information/>.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 10 days before the workshop/meeting by contacting: BOM Meeting Materials at BOM.MeetingMaterials@flhealth.gov or call at (850) 245-4131.

If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800) 955-8771 (TDD) or 1(800) 955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: BOM Meeting Materials at BOM.MeetingMaterials@flhealth.gov or call at (850) 245-4131.



Boards of Medicine and Osteopathic Medicine Joint Meeting

October 1, 2020

**Meet-Me-Number: 888-585-9008
Conference Room Number: 432-162-565**

AGENDA

Roll Call – 1:45 pm

Opening Remarks:

Discussion:

1. Limited Medical Student/Resident carve out on Health History Questions
2. Discussion/Approval of Health History Questions.

Public Comment

Old Business

New Business

Adjourn



ALLEN R. GROSSMAN
FILE NO.: 83892

a.grossman@gfblawfirm.com

AUGUST 24, 2020

Zachariah P. Zachariah, M.D.
Chair, Florida Board of Medicine
4052 Bald Cypress Way, Bin C-03
Tallahassee, Florida 32399-3253

Joel B. Rose, D.O.
Chair, Florida Board of Osteopathic Medicine,
4052 Bald Cypress Way, Bin C-06
Tallahassee, Florida 32399-3257

RE: Health History Questions on Applications

Dear Dr. Zachariah and Dr. Rose:

The Council of Florida Medical School Deans (Council of Deans), thanks you for your continued consideration of the health care history questions that appear on various applications used by the Boards and the Department of Health and particularly appreciates the scheduling of a joint Board meeting specifically for the purpose of appropriately considering and resolving the concerns that have been expressed by the Council of Deans and others at prior meetings of the Boards.

Over the last three years, the Boards have heard the concerns of the Council of Deans regarding the impact of the current health history questions on applications for licensure, can have on the willingness of medical students and residents to seek or utilize mental health resources to address anxiety, depressive symptoms and general psychological distress during medical school and residency training. The Council of Deans has previously provided the Boards with research addressing high rates of burnout and the existence of higher rates of mental health issues among medical students and residents than found in age-matched peers. The Council of Deans has provided background research on public health, legal considerations, communications from the Federation of State Medical Boards (FSMB) and other national entities, a number of letters from individual stakeholders and surveys regarding the nature and use of mental health questions by medical boards around the country, all addressing the stigmatization of medical students, residents and physicians seeking counseling/mental health services.

Several years ago, medical schools in this country acknowledged the need for education and training programs to make resources available to students and residents dealing with stress, anxiety and depression symptoms in a manner that would encourage, rather than discourage, students and residents to seek assistance when needed. In Florida, a survey of medical students found that since starting medical school:

- 63.0% reported their physical health had worsened
- 60.6% reported their psychological health had worsened

- 79.8% described their stress level as “significant” or severe
- Over 10% endorsed “thoughts of committing suicide during medical school”
- 46.27% have recently questioned whether they really want to become a doctor
- 70.1% of responders felt they would benefit from mental health resources, and
- 60.2% admitted that they had never utilized any mental health services

In response, each of Florida’s medical schools put in place programs to provide mental health resources and to encourage students and residents to utilize them without concern for stigmatization within the program. Although such resources are intended to assist students and residents in effectively dealing with stressors, our students’ and residents’ fear of perceived licensure barriers or increased exposure to disciplinary action impede their use of available mental health services.¹

With the COVID-19 pandemic wreaking havoc on Florida’s medical infrastructure, our physicians, residents, and medical students, along with our other healthcare providers, while valiantly caring for the needs of our fellow Floridians, are facing unprecedented levels of stress on multiple fronts. In addition to the patient care related issues and the health and safety issues faced by our students and residents, COVID-19 has made access to USMLE exams, clinical training opportunities, person to person interactions or interviews and other critically necessary activities and requirements for graduation and recruitment to residency programs, much more difficult. These uncertainties have only enhanced anxieties facing our medical students and residents. The Council of Deans suggests that our medical students and residents should not be required to face these mental health threats alone and should not feel that they are being placed in a position of choosing between seeking assistance and negatively impacting the future of their medical careers due to potential licensure problems or disciplinary action. Instead, they should be encouraged and supported to freely seek care without fear or apprehension.

As the Deans of Florida’s medical schools, each of the members of the Council of Deans considers it their primary mission to address the vital needs of their students and resident physicians. At the same time, the Council of Deans recognizes the significance of the Boards of Medicine’s responsibility to assure the safety of Florida patients through the regulation of the licensure of physicians. The Council of Deans believes that these are inextricably linked as the health and safety of Floridians depend upon the training and availability of a healthy physician workforce. Accordingly, the Council of Deans has been supportive of the suggestion to maintain uniform questions for all applicants, while providing a carve-out for medical students and residents in regard to the two health history questions asking about mental and physical disorders rather than substance related disorders or abuse.

The Council of Deans is particularly grateful for the efforts of Dr. Zachariah and the attorneys for the Boards of Medicine and Osteopathic Medicine for their efforts to draft appropriate carve-out language, for use with the health history questions, that would effectively dispel any perception by medical students and residents that they might be stigmatized by

¹ The Medscape 2020 Residents Lifestyle & Happiness Survey indicates that 64% of survey responders believe there is still a stigma against seeking help for mental health issues.

Dr. Zachariah and Dr. Rose

August 24, 2020

Page 3

being required to report their utilization of mental health resources during medical school and/or residency training.

Therefore, the Council of Deans respectfully urges the Board of Medicine and the Board of Osteopathic Medicine, at their joint meeting on September 10, 2020, to approve the language below to be included in the sections with the Department of Health's five proposed health history questions on their respective applications:

If you are not currently licensed as a physician in a jurisdiction other than Florida and have been enrolled in a medical school or residency program within the last two years and during such time have been successfully treated for a mental or physical disorder that impaired or would impair your ability to practice medicine (osteopathic medicine) with reasonable skill and safety, you may answer **No** to the first two questions below.

This proposed carve out is consistent with the recommendations of the FSMB set forth in the 2018 Report and Recommendations of the Workgroup on Physician Wellness and Burnout, adopted as policy in April 2018. The Council of Deans is confident that the effort of the Boards of Medicine to make clear that medical students and residents will not be penalized for utilizing mental health services during their medical education and training, will have a significant positive impact in dispelling the current perceptions of stigmatization that inhibit responsible utilization of mental health resources.

The Council of Deans thanks both Boards and their legal counsels and staff for the continued consideration of these extremely important issues and looks forward to approval of the proposed health history questions with the medical student and resident carve-out for the mental health questions, at the upcoming joint meeting of the Board of Osteopathic Medicine and the Board of Medicine.

If there are any questions regarding this recommendation by the Council of Deans or any desire by legal counsel or staff to discuss proposed language prior to the scheduled meeting, please do not hesitate to contact me.

Sincerely,

Allen R. Grossman

cc: Deans of Florida Medical Schools
Terry Meek, Executive Director



**DIVISION OF MEDICAL QUALITY ASSURANCE
HEALTH HISTORY QUESTIONS**

Health History Questions

<p style="text-align: center;">ORIGINAL HEALTH HISTORY QUESTIONS</p>	<p style="text-align: center;">REVISED HEALTH HISTORY QUESTIONS 2018 Proposed by Board of Medicine and Board of Osteopathic workgroup</p>	<p style="text-align: center;">PROPOSED HEALTH HISTORY QUESTIONS 2020</p>
<ol style="list-style-type: none"> 1. In the last five years, have you been enrolled in, required to enter, or participated in any drug or alcohol recovery program or impaired practitioner program for treatment of drug or alcohol abuse that occurred within the last five years? 2. In the last five years, have you been admitted or referred to a hospital, facility or impaired practitioner program for treatment of a diagnosed mental disorder or impairment? 3. During the last five years, have you been treated for or had a recurrence of a diagnosed physical disorder that has impaired your ability to practice your profession? 4. During the last five years, have you been treated for or had a recurrence of a diagnosed mental disorder that has impaired your ability to practice your profession within the past five years? 5. In the last five years, were you admitted or directed into a program for the treatment of a diagnosed substance—related (alcohol/drug) disorder or, if you were previously in such a 	<ol style="list-style-type: none"> 1. Do you have any condition that impairs your ability to practice your profession with reasonable skill and safety? 2. Are you using narcotics, drugs or intoxicating chemicals to such an extent that it would impair your ability to practice your profession with reasonable skill and safety? <p>If you answered “yes” to either of the above questions, provide a letter from a licensed health care practitioner who is qualified by skill and training to address your condition. The letter should explain the impact your condition may have on your ability to practice your profession with reasonable skill and safety, or state that you are safe to practice your profession without restriction. If necessary, you may attach additional sheets. Documentation must be current within the last year. If you fail to disclose the information requested in this section, your application may be denied.</p>	<ol style="list-style-type: none"> 1. During the last two years, have you been treated for or had a recurrence of a diagnosed physical or mental disorder that impaired or would impair your ability to practice? 2. In the last two years, have you been admitted or referred to a hospital, facility or impaired practitioner program for treatment of a diagnosed mental or physical disorder that impaired your ability to practice? 3. During the last five years, have you been treated for or had a recurrence of a diagnosed substance-related (alcohol or drug) disorder that impaired or would impair your ability to practice? 4. During the last five years, were you admitted or directed into a program for the treatment of a diagnosed substance-related (alcohol or drug) disorder or, if you were previously in such a program, did you suffer a relapse? 5. During the last five years, have you been enrolled in, required to enter, or participated in any substance-related (alcohol or drug) recovery program or impaired practitioner program for

<p>program, did you suffer a relapse within the last five years?</p> <p>6. During the last five years, have you been treated for or had a recurrence of a diagnosed substance—related (alcohol/drug) disorder that has impaired your ability to practice your profession within the past five years?</p>		<p>treatment of drug or alcohol abuse?</p> <p>If a “Yes” response was provided to any of the questions in this section, provide the following documents directly to the board office:</p> <ol style="list-style-type: none"> 1. A letter from a Licensed Health Care Practitioner, who is qualified by skill and training to address the condition identified, which explains the impact the condition may have on the ability to practice the profession with reasonable skill and safety. The letter must specify that the applicant is safe to practice the profession without restrictions or specifically indicate the restrictions that are necessary. Documentation provided must be dated within one year of the application date. 2. A written self-explanation, identifying the medical condition(s) or occurrence(s); and current status.
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(All areas where “would impair” appears has been deleted; also formatting is for ease of reading and commenting)

If you are not currently licensed as a physician in a jurisdiction other than Florida and have been enrolled in a medical school or residency/**FELLOWSHIP** program within the last two years and during such time have been successfully treated for a mental or physical disorder that impaired or would impair your ability to practice (medicine/osteopathic medicine) with reasonable skill and safety, you may answer NO to the first two questions below.

1. During the last two years,

have you been treated for or had a recurrence of a diagnosed physical or mental disorder that impaired or would impair your ability to practice?

2. ~~In~~ During the last two years, (All other paragraphs start with “During” so why should this be different with “In”?)

have you been admitted or referred to a hospital, facility or impaired practitioner program for treatment of a diagnosed mental or physical disorder that impaired your ability to practice?

3. During the last five years,

have you been treated for or had a recurrence of a diagnosed substance-related (alcohol or drug) disorder that impaired or would impair your ability to practice?

4. During the last five years, were you admitted or directed into a program for the treatment of a diagnosed substance-related (alcohol or drug) disorder or, if you were previously in such a program, did you suffer relapse?

5. During the last five years, have you been enrolled in, required to enter, or participated in any substance-related (alcohol or drug) recovery program or impaired practitioner program for treatment of drug or alcohol abuse?

If a “Yes” response was provided to any of the questions in this section, provide the following documents directly to the board office:

1. A letter from a Licensed Health Care Practitioner (**Psychiatrist MD or DO**), (In my many terms as Chair of FBOOM, I think all DO evaluations should be performed by a psychiatrist (DO or MD) because physicians function at the highest level of complexity

there is a need to truly understand the requirements and nuances of multiple specialties, professional responsibilities, cognitive abilities and physical skill sets, etc.) who is qualified by skill and training to address the condition identified, which explains the impact the condition may have on the ability to practice the profession with reasonable skill and safety. The letter must specify that the applicant is safe to practice the profession without restrictions or specifically indicate the restrictions that are necessary. Documentation provided must be dated within one year of the application date.

2. A written self-explanation, identifying the medical condition(s) or occurrence(s); and current status.

From: Robert London <rlondon10.bom@gmail.com>

Sent: Thursday, September 3, 2020 2:02 PM

To: Kemp, Claudia J <Claudia.Kemp2@flhealth.gov>

Subject: Re: Confirming availability for 9/10 meeting on health history questions

Claudia,

I support the updating the health questions on the application, and find these revised questions to be a significant improvement. Because I am weary of questions that involve a "self attestation" (ie 'did your condition affect your ability to practice medicine...'), I offer the following minor adjustments in the language of the proposed questions #1 and #3.

1. During the last two years, have you been treated for or had a recurrence of a diagnosed physical or mental disorder ~~that~~ **because it impaired** or **because concern existed that it** would impair your ability to practice?

3. During the last five years, have you been treated for or had a recurrence of a diagnosed substance-related (alcohol or drug) disorder ~~that~~ **because it impaired** or **because concern existed that it** would impair your ability to practice?

Respectfully,

Robert London MD

From: Ed Tellechea <Ed.Tellechea@myfloridalegal.com>
Sent: Friday, September 18, 2020 9:02 AM
To: rlondon10.bom@gmail.com <rlondon10.bom@gmail.com>
Cc: Donna McNulty <Donna.McNulty@myfloridalegal.com>; Kemp, Claudia J <Claudia.Kemp2@flhealth.gov>; Sanford, Crystal <Crystal.Sanford@flhealth.gov>; Nancy Murphy <Nancy.Murphy@myfloridalegal.com>
Subject: RE: Confirming availability for 9/10 meeting on health history questions

Dr. London,

The language you suggested that reads, “[because concern existed that it](#) would impair your ability to practice,” would likely violate the ADA. Feel free to call me to discuss.

Edward A. Tellechea

Chief Assistant Attorney General
Administrative Law Bureau
Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399-1050
Office: (850) 414-3754
Fax: (850) 922-6425
Ed.Tellechea@myfloridalegal.com



Department's 2020 Proposed Health History Questions

Health History

The board and the department, as part of its responsibility to protect the health, safety and welfare of the public, must assess whether an applicant manifests any physical, mental health or substance use issue that impairs the applicant's ability to meet the eligibility requirements for a health care practitioner as defined in Chapter 456, Florida Statutes, and the applicable statutory practice acts.

The board and the department support applicants seeking treatment and views effective treatment by a licensed professional as enhancing the applicant's ability to meet the eligibility requirements to practice a health care profession.

Seeking counseling to assist with stress, mild anxiety, situational depression, family or marital issues will not adversely affect the outcome of a Florida health care practitioner application. The board and the department do not request that applicants disclose such counseling. Generalized Anxiety Disorder and Major Depressive Disorder should be disclosed under question one.

1. During the last two years, have you been treated for or had a recurrence of a diagnosed physical or mental disorder that impaired or impairs your ability to practice?
2. During the last five years, have you been treated for or had a recurrence of a diagnosed substance-related (alcohol or drug) disorder that impaired or impairs your ability to practice?

If a "Yes" response was provided to any of the questions in this section, provide the following documents directly to the board office:

1. A letter from a licensed health care practitioner, who is qualified by skill and training to address the condition identified, which explains the impact the condition may have on the ability to practice the profession with reasonable skill and safety. The letter must specify that the applicant is safe to practice the profession without restrictions or specifically indicate the restrictions that are necessary. Documentation provided must be dated within one year of the application date.
2. A written self-explanation, identifying the medical condition(s) or occurrence(s); and current status.

Department's 2020 Proposed Health History Questions

Health History

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1. During the last two years, have you been treated for or had a recurrence of a diagnosed physical or mental disorder that impaired or impairs your ability to practice?
2. During the last five years, have you been treated for or had a recurrence of a diagnosed substance-related (alcohol or drug) disorder that impaired or impairs your ability to practice?

If a "Yes" response was provided to any of the questions in this section, provide the following documents directly to the board office:

1. A letter from a licensed health care practitioner, who is qualified by skill and training to address the condition identified, which explains the impact the condition may have on the ability to practice the profession with reasonable skill and safety. The letter must specify that the applicant is safe to practice the profession without restrictions or specifically indicate the restrictions that are necessary. The practitioner must also include a statement providing their qualifications to make the determination that the applicant may practice with reasonable skill and safety. This statement must include a description of formal training, continuing medical education courses, publications and professional experience. Documentation provided must be dated within one year of the application date.
2. A written self-explanation, identifying the medical condition(s) or occurrence(s); and current status.

From: Allen Grossman <a.grossman@gfblawfirm.com>
Sent: Tuesday, September 29, 2020 2:13 PM
To: Wenhold, Jennifer <Jennifer.Wenhold@flhealth.gov>
Cc: Terry Meek <terrymeek22@gmail.com>
Subject: RE: Response to Proposed Language on Health History Questions for Joint Board Meeting on October 1

Jennifer,

I appreciate your providing me with a copy of the Department's newly proposed language regarding the health history questions on applications used by the Department for licensing by healthcare boards. I have shared the language with the Council of Florida Medical School Deans. Although I was out of pocket yesterday due to the Jewish holy day, the Council of Deans met and considered the language you provided.

The Council of Deans wants to acknowledge the improved tone and positive steps indicated by the Department's new proposed preamble language and health history questions. They also acknowledge the Department's attempt to propose generic language that can be applicable to all health care professions. The Council of Deans also wish to communicate their desire to continue to seek a carve-out or safe-harbor for recent medical students, residents and fellows, who successfully sought assistance for mental health issues while in school or post-graduate training and have no objection to such language also being applicable to all health care professions.

The Council of Deans strongly believes that it is necessary to avoid stigmatization of mental health issues in a way that will not continue to discourage medical students and post-graduate trainees from seeking and accepting assistance in dealing with mental health issues while in school or training and thereby will be more likely to better prepare themselves to deal with the pressures and stressors of professional practice in the future. The Council of Deans remains supportive of carve-out language, whether it be as a version of the language previously proposed as the result of several months of public meetings and the drafting efforts of the Boards' legal counsels and Dr. Zachariah, the Chair of the Board of Medicine, or as an addition to the newly provided language of the Department.

Dr. Rose, the Chair of the Osteopathic Board of Medicine, has suggested some modifications to the initial carve-out language placed on the agenda for the October 1 joint meeting of the Boards, and the Council of Deans is supportive of the use of such language, whether it is used by itself as a preamble to the two health history questions now being proposed by the Department or if it is added to the language in the new preamble and questions proposed by the Department. Dr. Rose's suggested language does not appear to have been added to the agenda materials for the joint meeting, but I believe it was provided to you with his suggestion regarding the letter that is required if either of the two health history questions is answered affirmatively.

Although the Council of Deans is generally supportive of the new generic language proposed by the Department of Health, if it also includes a carve-out that is applicable to recent medical students and post-graduate trainees, there are two specific suggestions the Council of Deans is making in regard to the last paragraph of the preamble language proposed by the Department. First, in the final paragraph of the preamble language proposed, the Council of Deans asks that the words "counseling to assist" and "counseling" be replaced with the word "assistance" and second, that the last sentence of the paragraph be deleted.

In making these suggestions, the Council of Deans would like the Department and the Boards to consider that there may be any number of courses of actions recommended or taken in conjunction with counseling for the purpose of addressing relatively minor mental health issues (e.g., group therapy, diet, exercise, sleep enhancers, recommendations for behavior modifications and relaxation techniques) which might be considered something beyond just “counseling”, and the Council of Deans believes that the specific references to Generalized Anxiety Disorder and Major Depression are not only unnecessary, but in fact provide the very stigmatization of specific mental health disorders that the Council of Deans is seeking to avoid in requesting a limited carve-out to the mental health history question being proposed by the Department.

In case it is helpful in considering generic carve-out language to be added to the Department’s proposed language, here is a generic version of the language drafted by the Boards’ legal counsels and Dr. Zachariah and incorporating the amendments suggested by Dr. Rose:

You may answer NO to question one below if, within the last two years, you have been enrolled in:

- A post-graduate professional education program
- A college level professional training program
- A vocational training program
- A residency training program
- A fellowship training program
- An internship training program or
- A period of supervised practice that is required for professional licensure

and during such time you were successfully treated for a mental or physical disorder that impaired your ability to practice your profession with reasonable skill and safety.

Thank you for the opportunity to provide a response on behalf of the Council of Deans and we all look forward to working together and reaching a helpful and positive resolution of this language at the joint meeting of the Boards on October 1, 2020.

Allen R. Grossman
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From: Wenhold, Jennifer <Jennifer.Wenhold@flhealth.gov>
Sent: Wednesday, September 23, 2020 4:45 PM
To: Allen Grossman <a.grossman@gfblawfirm.com>
Subject: RE: Joint Board Meeting on October 1

My pleasure.

From: Allen Grossman <a.grossman@gfblawfirm.com>
Sent: Wednesday, September 23, 2020 4:45 PM
To: Wenhold, Jennifer <Jennifer.Wenhold@flhealth.gov>
Cc: Kemp, Claudia J <Claudia.Kemp2@flhealth.gov>
Subject: RE: Joint Board Meeting on October 1

Jennifer,

I will be happy to present this to my client for review and I will get back to you with any feedback. Thank you very much.

Allen R. Grossman
Grossman Furlow and Bayó, L.L.C.
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From: Wenhold, Jennifer <Jennifer.Wenhold@flhealth.gov>
Sent: Wednesday, September 23, 2020 4:31 PM
To: Allen Grossman <a.grossman@gfblawfirm.com>
Cc: Kemp, Claudia J <Claudia.Kemp2@flhealth.gov>
Subject: RE: Joint Board Meeting on October 1

Hi Allen,

Attached is a draft of the proposed revised health history questions that we have been working on. Can you take a look and share your client's thoughts? Happy to discuss.

Regards,

Jennifer L. Wenhold, MSW, Chief
Bureau of Health Care Practitioner Regulation
Division of Medical Quality Assurance
Florida Department of Health

850.245-4460 (office)
850.688.8456 (cell)

Mission: To protect, promote and improve the health of all people in Florida through integrated state, county and community efforts.

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From: Allen Grossman <a.grossman@gfblawfirm.com>
Sent: Wednesday, September 23, 2020 12:18 PM
To: Kemp, Claudia J <Claudia.Kemp2@flhealth.gov>
Subject: Joint Board Meeting on October 1
Importance: High

Claudia,

I understand that there may be a DOH revised version of the Health History Questions presented for consideration at the meeting. May I please have a copy of it to review with my client? I would also appreciate receiving a copy of any additional information being provided to the board members that is not in the currently posted public book.

Thank you very much.

Allen R. Grossman
Grossman Furlow and Bayó, L.L.C.
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Tallahassee, Florida 32308
(850) 385-1314
(850) 385-4240 (fax)
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