

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

ALAN SCOTT KELLERMANN, M.D.

**Physician's and Surgeon's
Certificate No. A 24844**

Respondent.

Case No. 800-2019-059177

DECISION

**The attached Decision is hereby adopted as the Decision and Order
of the Medical Board of California, Department of Consumer Affairs, State
of California.**

This Decision shall become effective at 5:00 p.m. on October 5, 2023.

IT IS SO ORDERED September 5, 2023.

MEDICAL BOARD OF CALIFORNIA



**Laurie Rose Lubiano, J.D., Chair
Panel A**

1 ROB BONTA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 KALEV KASEORU
Deputy Attorney General
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Attorneys for Complainant

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9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 **ALAN SCOTT KELLERMANN, M.D.**
15 **10388 Boulder St.**
Nevada City, CA 95959-2627

16 **Physician's and Surgeon's Certificate**
17 **No. A 24844**

18 Respondent.

Case No. 800-2019-059177

OAH No. 2022120650

19 **STIPULATED SETTLEMENT AND**
20 **DISCIPLINARY ORDER**

21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Reji Varghese (Complainant) is the Executive Director of the Medical Board of
24 California (Board). He brought this action solely in his official capacity and is represented in this
25 matter by Rob Bonta, Attorney General of the State of California, by Kalev Kaseoru, Deputy
26 Attorney General.

27 2. Respondent Alan Scott Kellermann, M.D. (Respondent) is represented in this
28 proceeding by attorney Brian M. Taylor, Esq., whose address is: 555 Capitol Mall, Suite 1500

1 Sacramento, CA 95814. On or about July 26, 1972, the Board issued Physician's and Surgeon's
2 Certificate No. A 24844 to Alan Scott Kellermann, M.D. (Respondent). The Physician's and
3 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in
4 Accusation No. 800-2019-059177, and will expire on July 31, 2025, unless renewed.

5 **JURISDICTION**

6 3. Accusation No. 800-2019-059177 was filed before the Board, and is currently
7 pending against Respondent. The Accusation and all other statutorily required documents were
8 properly served on Respondent on August 23, 2022. Respondent timely filed his Notice of
9 Defense contesting the Accusation.

10 4. A copy of Accusation No. 800-2019-059177 is attached as Exhibit A and
11 incorporated herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 5. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 800-2019-059177. Respondent has also carefully read,
15 fully discussed with his counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

17 6. Respondent is fully aware of his legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
19 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
20 to the issuance of subpoenas to compel the attendance of witnesses and the production of
21 documents; the right to reconsideration and court review of an adverse decision; and all other
22 rights accorded by the California Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

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1 **CULPABILITY**

2 8. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2019-059177, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

5 9. Respondent agrees that, at a hearing, Complainant could establish a prima facie case
6 or factual basis for the charges in the Accusation, and that Respondent hereby gives up his right
7 to contest those charges.

8 10. Respondent does not contest that, at an administrative hearing, Complainant could
9 establish a prima facie case with respect to the charges and allegations in Accusation No. 800-
10 2019-059177, a true and correct copy of which is attached hereto as Exhibit A, and that he has
11 thereby subjected his Physician's and Surgeon's Certificate, No. A 24844 to disciplinary action.

12 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
13 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
14 Disciplinary Order below.

15 **CONTINGENCY**

16 12. This stipulation shall be subject to approval by the Medical Board of California.
17 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
18 Board of California may communicate directly with the Board regarding this stipulation and
19 settlement, without notice to or participation by Respondent or his counsel. By signing the
20 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
21 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
22 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
23 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
24 action between the parties, and the Board shall not be disqualified from further action by having
25 considered this matter.

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1 **ADDITIONAL PROVISIONS**

2 13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
3 be an integrated writing representing the complete, final, and exclusive embodiment of the
4 agreements of the parties in the above-listed matter.

5 14. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
6 including copies of the signatures of the parties, may be used in lieu of original documents and
7 signatures and, further, that such copies shall have the same force and effect as originals.

8 15. In consideration of the foregoing admissions and stipulations, the parties agree that
9 the Board may, without further notice or opportunity to be heard by the Respondent, issue and
10 enter the following Disciplinary Order:

11 **DISCIPLINARY ORDER**

12 **A. PUBLIC REPRIMAND**

13 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 24844 issued
14 to Respondent Alan Scott Kellermann, M.D., shall be and is hereby publicly reprimanded
15 pursuant to California Business and Professions Code, section 2227, subdivision (a) (4). This
16 public reprimand, which is issued in connection Respondent's failure to comply with the federal
17 statutory requirements involving the administration of Sublocade as set forth in Accusation No.
18 800-2019-059177, is as follows:

19 "On multiple occasions Respondent permitted an unlicensed medical assistant to administer
20 Sublocade injections to patients under his care in direct violation of federal statute. Respondent
21 ceased this practice voluntarily when informed by colleagues that such delegation was not
22 permitted."

23 **B. INVESTIGATION/ENFORCEMENT COST RECOVERY.** Respondent is hereby
24 ordered to reimburse the Board its costs of investigation and enforcement, including, but not
25 limited to, expert review, legal reviews, and investigation and other costs, in the amount of
26 \$14,000.00 (Fourteen thousand dollars). This amount reflects a reduction of costs by the Board.
27 Costs shall be payable to the Medical Board of California. Failure to pay such costs shall be
28 considered unprofessional conduct and may serve as the grounds for further disciplinary action.

1 Payment must be made in full within 365 calendar days of the effective date of the Order,
2 or by a payment plan approved by the Medical Board of California. Any and all requests for a
3 payment plan shall be submitted in writing by Respondent to the Board. Failure to comply with
4 the payment plan shall be considered unprofessional conduct and may serve as the grounds for
5 further disciplinary action.

6 The filing of bankruptcy by Respondent shall not relieve Respondent of the responsibility
7 to repay investigation and enforcement costs, including expert review costs.

8 ACCEPTANCE

9 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
10 discussed it with my attorney, Brian M. Taylor, Esq. I understand the stipulation and the effect it
11 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
12 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
13 Decision and Order of the Medical Board of California.

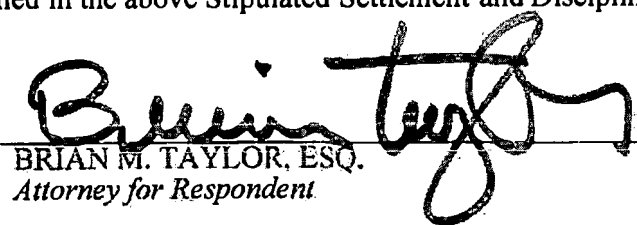
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15 DATED: 07/20/2023



16 ALAN SCOTT KELLERMANN, M.D.
Respondent

17 I have read and fully discussed with Respondent Allan Scott Kellermann, M.D. the terms
18 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
19 Order. I approve its form and content.

20 DATED: 7/21/23


21 BRIAN M. TAYLOR, ESQ.
Attorney for Respondent

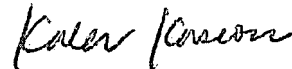
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: July 21, 2023

Respectfully submitted,

ROB BONTA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General



KALEV KASEORU
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2019-059177

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8 *Attorneys for Complainant*

9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2019-059177

14 **ALAN SCOTT KELLERMANN, M.D.**
10388 Boulder St.
15 Nevada City, CA 95959-2627

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
No. A 24844,

17 Respondent.
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20 **PARTIES**

21 1. William Prasifka (Complainant) brings this Accusation solely in his official capacity
22 as the Executive Director of the Medical Board of California, Department of Consumer Affairs
23 (Board).

24 2. On or about July 26, 1972, the Medical Board issued Physician's and Surgeon's
25 Certificate Number A 24844 to Alan Scott Kellermann, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on July 31, 2023, unless renewed.

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4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

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1 7. Section 2234 of the Code, states:

2 The board shall take action against any licensee who is charged with
3 unprofessional conduct¹. In addition to other provisions of this article, unprofessional
4 conduct includes, but is not limited to, the following:

5 (a) Violating or attempting to violate, directly or indirectly, assisting in or
6 abetting the violation of, or conspiring to violate any provision of this chapter.

7 (b) Gross negligence.

8 (c) Repeated negligent acts. To be repeated, there must be two or more
9 negligent acts or omissions. An initial negligent act or omission followed by a
10 separate and distinct departure from the applicable standard of care shall constitute
11 repeated negligent acts.

12 (1) An initial negligent diagnosis followed by an act or omission medically
13 appropriate for that negligent diagnosis of the patient shall constitute a single
14 negligent act.

15 (2) When the standard of care requires a change in the diagnosis, act, or
16 omission that constitutes the negligent act described in paragraph (1), including, but
17 not limited to, a reevaluation of the diagnosis or a change in treatment, and the
18 licensee's conduct departs from the applicable standard of care, each departure
19 constitutes a separate and distinct breach of the standard of care.

20 (d) Incompetence.

21 (e) The commission of any act involving dishonesty or corruption that is
22 substantially related to the qualifications, functions, or duties of a physician and
23 surgeon.

24 (f) Any action or conduct that would have warranted the denial of a certificate.

25 (g) The failure by a certificate holder, in the absence of good cause, to attend
26 and participate in an interview by the board. This subdivision shall only apply to a
27 certificate holder who is the subject of an investigation by the board.

28 8. 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."

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¹ Unprofessional conduct under California Business and Professions Code section 2234 is
conduct which breaches the rules of ethical code of the medical profession, or conduct which is
unbecoming to a member in good standing of the medical profession, and which demonstrates an
unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,
575.)

1 9. Section 2069, of the Code states, in pertinent part:

2 (a)(1) "Notwithstanding any other law, a medical assistant may administer
3 medication only by intradermal, subcutaneous, or intramuscular injections and
4 perform skin tests and additional technical supportive services upon the specific
5 authorization and supervision of a licensed physician and surgeon or a licensed
6 podiatrist. A medical assistant may also perform all these tasks and services upon the
7 specific authorization of a physician assistant, a nurse practitioner, or a certified
8 nurse-midwife."

9 (2) "The supervising physician and surgeon, may, at his or her discretion, in
10 consultation with the nurse practitioner, certified nurse-midwife, or physician
11 assistant, provide written instructions to be followed by a medical assistant in the
12 performance of tasks or supportive services. These written instructions may provide
13 that the supervisory function for the medical assistant for these tasks or supportive
14 services may be delegated to the nurse practitioner, certified nurse-midwife, or
15 physician assistant within the standardized procedures or protocol, and that tasks may
16 be performed when the supervising physician and surgeon is not onsite, if either of
17 the following apply:

18 ...

19 (B) The physician assistant is functioning pursuant to regulated services
20 defined in Section 3502, including instructions for specific authorizations, and is
21 approved to do so by the supervising physician and surgeon."

22 (b)(1) "Medical assistant" means a person who may be unlicensed, who
23 performs basic administrative, clerical, and technical supportive services in
24 compliance with this section and Section 2070 for a licensed physician and surgeon
25 or a licensed podiatrist, or group thereof, for a medical or podiatry corporation, for a
26 physician assistant, a nurse practitioner, or a certified nurse midwife as provided in
27 subdivision (a), or for a health care service plan, who is at least 18 years of age, and
28 who has had at least the minimum amount of hours of appropriate training pursuant to
standards established by the board. The medical assistant shall be issued a certificate
by the training institution or instructor indicating satisfactory completion of the
required training. A copy of the certificate shall be retained as a record by each
employer of the medical assistant.

 (2) "Specific authorization" means a specific written order prepared by the
supervising physician and surgeon or the supervising podiatrist, or the physician
assistant, the nurse practitioner, or the certified nurse-midwife as provided in
subdivision (a), authorizing the procedures to be performed on a patient, which shall
be placed in the patient's medical record, or a standing order prepared by the
supervising physician and surgeon or the supervising podiatrist, or the physician
assistant, the nurse practitioner, or the certified nurse-midwife as provided in
subdivision (a), authorizing the procedures to be performed, the duration of which
shall be consistent with accepted medical practice. A notation of the standing order
shall be placed on the patient's medical record.

 (3) "Supervision" means the supervision of procedures authorized by this
section by the following practitioners, within the scope of their respective practices,

1 who shall be physically present in the treatment facility during the performance of
2 those procedures:

3 (A) A licensed physician and surgeon.

4 (B) A licensed podiatrist.

5 (C) A physician assistant, nurse practitioner, or certified nurse-midwife as
6 provided in subdivision (a).

7

8 10. Section 2238 of the Code states:

9 "A violation of any federal statute or federal regulation or any of the statutes or regulations
10 of this state regulating dangerous drugs or controlled substances constitutes unprofessional
11 conduct."

12 11. United States Code, Title 21, Section 823(g)(1), states, in pertinent part:

13 "Except as provided in paragraph (2), practitioners who dispense narcotic drugs to
14 individuals for maintenance treatment or detoxification treatment shall obtain annually a separate
15 registration for that purpose. The Attorney General shall register an applicant to dispense narcotic
16 drugs to individuals for maintenance treatment or detoxification treatment (or both)..."

17 12. United States Code, Title 21, Section 823(g)(2)(G)(iv), states, in pertinent part,

18 "The term 'qualifying other practitioner' means a nurse practitioner, clinical nurse
19 specialist, certified registered nurse anesthetist, certified nurse midwife, or physician assistant,
20 who satisfies each of the following:..."

21 COST RECOVERY

22 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
23 administrative law judge to direct a licensee found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
26 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
27 included in a stipulated settlement.

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FACTUAL ALLEGATIONS

14. On or about August 29, 2019, the Medical Board of California (MBC) received an anonymous on-line complaint alleging that Respondent, as the Medical Director of Granite Wellness Center (Granite) in Grass Valley, California, had allowed an unlicensed nurse to practice as a nurse and that she provided patients with Sublocade² and TB³ injections.

15. On or about November 14, 2019, the complaint was assigned to a Health Quality Investigation Unit (HQIU) Investigator who, over the course of his investigation, found that the unlicensed nurse named in the complaint was employed as a medical assistant and not practicing as a nurse at Granite.

16. On or about February 13, 2020, another HQIU Investigator assigned to the matter, interviewed Respondent and Respondent informed him that the medical assistant named in the complaint performed Sublocade and TB injections on patients at Granite under his direct supervision. Respondent informed the HQIU investigator that the medical assistant had received training on injections prior to her promotion to medical assistant.

17. On or about February 18, 2020, the HQIU Investigator interviewed the medical assistant and she stated that she performed Sublocade injections on patients at Granite under Respondent's supervision. She stated that she performed Sublocade injections on patients, approximately, from 2019 through 2020, and TB injections from 2018 through 2020.

18.. On or about January 12, 2022, the HQIU Investigator sought and received documents from Granite pursuant to his request for any and all training and certifications related to the medical assistant referred to in the complaint and supervised by Respondent. The documents provided did not include any training certificates or records of training.

19.. On or about April 13, 2022, the HQIU Investigator interviewed Respondent via telephone and Respondent stated that the medical assistant had administered Sublocade and TB injections to patients. Respondent stated that it was his belief that medical assistants can administer TB shots as long as they are trained and supervised by the provider. Respondent

² Sublocade is a medication name for the drug buprenorphine and is used to treat opioid use disorder.

³ Tuberculosis (vaccination).

1 further stated that a provider was "mostly" in the room with the medical assistant when she gave
2 TB shots to patients. Respondent added that he trained and supervised the medical assistant to
3 administer Sublocade injections to patients for approximately nine to twelve months. Respondent
4 stated that he was required to obtain an "x-ref"⁴ number from the D.E.A.⁵ in order to administer
5 Sublocade injections to Granite's patients. Respondent said that he ceased having the medical
6 assistant administer Sublocade injections to patients when someone informed him that medical
7 assistants were not allowed to administer Sublocade injections. Respondent stated that he
8 believed all copies of training certificates and other such documentation were in the possession of
9 Granite. At the time of the interview, Respondent was no longer the Medical Director of Granite.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Gross Negligence)**

12 20. Respondent Alan Scott Kellermann, M.D. is subject to disciplinary action under Code
13 section 2234, subdivision (b), and section 2238, in relation to United States Code, Title 21,
14 Section 823(g)(2)(G)(iv), as he allowed an unlicensed medical assistant to administer Sublocade
15 injections to patients in violation of federal law. The circumstances are set forth in paragraphs 14
16 through 19, above, which are hereby incorporated by reference and realleged as if fully set forth
17 herein. Additional circumstances are as follows:

18 A. While Respondent did obtain an x-waiver from the D.E.A. permitting him to
19 administer and prescribe Sublocade to patients, United States Code, Title 21, Section
20 823(g)(2)(G)(iv) does not include medical assistants as medical providers that can qualify to
21 administer Sublocade.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Repeated Negligent Acts)**

24 21. Respondent Alan Scott Kellerman, M.D. is subject to disciplinary action under Code
25 section 2234, subdivision (c), as he allowed an unlicensed medical assistant to administer TB
26 injections to patients while not supervised by a provider at all times. The circumstances are set

27 ⁴ Most likely referring to an 'x-waiver', a specific training and certification legally
28 required by the federal government of all providers who administer/prescribe Sublocade.

⁵ (Federal) Drug Enforcement Agency.

1 forth in paragraphs 14 through 20, above, which are hereby incorporated by reference and
2 realleged as if fully set forth herein. Additional circumstances are as follows:

3 A. Respondent provided no documentation or evidence that a set of instructions or
4 standard operating procedures were in place for the medical assistant to follow when a provider
5 was not present.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(Aiding and Abetting the Unlicensed Practice of Medicine)**

8 22. Respondent Alan Scott Kellerman, M.D. is subject to disciplinary action under Code
9 section 2052 and 2264 as he aided and abetted in the unlicensed practice of medicine by his
10 medical assistant. The circumstances are set forth in paragraphs 14 through 21, above, which are
11 hereby incorporated by reference and realleged as if fully set forth herein.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 **(General Unprofessional Conduct)**

14 23. Respondent Alan Scott Kellerman, M.D. is subject to disciplinary action under Code
15 section 2234, as he failed to accurately record and document training of an unlicensed medical
16 assistant while he was the Medical Director at Granite. The circumstances are set forth in
17 paragraphs 14 through 22, above, which are hereby incorporated by reference and realleged as if
18 fully set forth herein.

19 **PRAYER**

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

22 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 24844,
23 issued to Alan Scott Kellermann, M.D.:


24 2. Revoking, suspending or denying approval of Alan Scott Kellermann, M.D.'s
25 authority to supervise physician assistants and advanced practice nurses;

26 3. Ordering Alan Scott Kellermann, M.D., to pay the Board the costs of the
27 investigation and enforcement of this case, and if placed on probation, the costs of probation
28 monitoring;

1 4. Ordering Respondent Alan Scott Kellermann, M.D., if placed on probation, to
2 provide patient notification in accordance with Business and Professions Code section 2228.1;
3 and

4 5. Taking such other and further action as deemed necessary and proper.

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6 DATED: AUG 23 2022



WILLIAM PRASHKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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