

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

In the Matter of the Accusation
Against:

K N Solomon Mbagwu, M.D.

Physician's and Surgeons
Certificate No. G 42217

Respondent.

Case No. 800-2017-034054

DECISION

The attached Stipulated Settlement and Disciplinary Order 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 January 22, 2021.

IT IS SO ORDERED: December 24, 2020.

MEDICAL BOARD OF CALIFORNIA



Kristina D. Lawson, J.D., Chair
Panel B

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 JOSHUA M. TEMPLET
Deputy Attorney General
4 State Bar No. 267098
California Department of Justice
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6688
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:
13
14 **KN SOLOMON MBAGWU, M.D.**
1218 S. Inglewood Avenue
Inglewood, CA 90301
15
16 **Physician's and Surgeon's Certificate**
No. G 42217
17
18 Respondent.

Case No. 800-2017-034054
OAH No. 2020030738
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

21 **PARTIES**

- 22 1. William Prasifka (Complainant) is the Executive Director of the Medical Board of
23 California (Board). He brought this action solely in his official capacity and is represented in this
24 matter by Xavier Becerra, Attorney General of the State of California, via Joshua M. Temple,
25 Deputy Attorney General.
- 26 2. Respondent K N Solomon Mbagwu, M.D. (Respondent) is represented in this
27 proceeding by attorney Michael D. Gonzalez, Law Offices of Michael D. Gonzalez, 101 N. Brand
28 Boulevard, Suite 1880, Glendale, CA 91203.

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 42217 issued
3 to Respondent K N Solomon Mbagwu, M.D. is revoked. However, the revocation is stayed and
4 Respondent is placed on probation for 35 months with the following terms and conditions:

5 1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this
6 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
7 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
8 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
9 correcting any areas of deficient practice or knowledge, including but not limited to the use of
10 antibiotics in obstetrics, and shall be Category I certified. The educational program(s) or course(s)
11 shall be at Respondent's expense and shall be in addition to the Continuing Medical Education
12 (CME) requirements for renewal of licensure. Following the completion of each course, the
13 Board or its designee may administer an examination to test Respondent's knowledge of the
14 course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours
15 were in satisfaction of this condition.

16 2. **PROFESSIONALISM PROGRAM (ETHICS COURSE).** Within 60 calendar days of
17 the effective date of this Decision, Respondent shall enroll in a professionalism program that
18 meets the requirements of California Code of Regulations, title 16, section 1358.1. Respondent
19 shall participate in and successfully complete that program. Respondent shall provide any
20 information and documents that the program may deem pertinent. Respondent shall successfully
21 complete the classroom component of the program not later than six months after Respondent's
22 initial enrollment, and the longitudinal component of the program not later than the time specified
23 by the program, but no later than one year after attending the classroom component. The
24 professionalism program shall be at Respondent's expense and shall be in addition to the CME
25 requirements for renewal of licensure.

26 A professionalism program taken after the acts that gave rise to the charges in the
27 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
28 or its designee, be accepted towards the fulfillment of this condition if the program would have

1 been approved by the Board or its designee had the program been taken after the effective date of
2 this Decision.

3 Respondent shall submit a certification of successful completion to the Board or its
4 designee not later than 15 calendar days after successfully completing the program or not later
5 than 15 calendar days after the effective date of the Decision, whichever is later.

6 3. NOTIFICATION. Within seven days of the effective date of this Decision, the
7 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
8 Chief Executive Officer at every hospital where privileges or membership are extended to
9 Respondent, at any other facility where Respondent engages in the practice of medicine,
10 including all physician and locum tenens registries or other similar agencies, and to the Chief
11 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
12 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
13 calendar days.

14 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

15 4. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
16 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
17 advanced practice nurses.

18 5. OBEY ALL LAWS. Respondent shall obey all federal, state, and local laws, and all
19 rules governing the practice of medicine in California, and remain in full compliance with any
20 court ordered criminal probation, payments, and other orders.

21 6. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
22 under penalty of perjury on forms provided by the Board, stating whether he has complied with
23 all conditions of probation.

24 Respondent shall submit quarterly declarations not later than ten calendar days after the end
25 of the preceding quarter.

26 7. GENERAL PROBATION REQUIREMENTS.

27 Compliance with Probation Unit

28 Respondent shall comply with the Board's probation unit.

1 Address Changes

2 Respondent shall, at all times, keep the Board informed of Respondent's business and
3 residence addresses, email address (if available), and telephone number. Changes of such
4 addresses shall be immediately communicated in writing to the Board or its designee. Under no
5 circumstances shall a post office box serve as an address of record, except as allowed by Business
6 and Professions Code section 2021, subdivision (b).

7 Place of Practice

8 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
9 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
10 facility.

11 License Renewal

12 Respondent shall maintain a current and renewed California physician's and surgeon's
13 license.

14 Travel or Residence Outside California

15 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
16 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30
17 calendar days.

18 In the event Respondent should leave the State of California to reside or to practice,
19 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
20 departure and return.

21 8. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
22 available in person upon request for interviews either at Respondent's place of business or at the
23 probation unit office, with or without prior notice throughout the term of probation.

24 9. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
25 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
26 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
27 defined as any period of time Respondent is not practicing medicine as defined in Business and
28 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct

1 patient care, clinical activity or teaching, or other activity as approved by the Board. If
2 Respondent resides in California and is considered to be in non-practice, Respondent shall
3 comply with all terms and conditions of probation. All time spent in an intensive training program
4 which has been approved by the Board or its designee shall not be considered non-practice and
5 does not relieve Respondent from complying with all the terms and conditions of probation.
6 Practicing medicine in another state of the United States or federal jurisdiction while on probation
7 with the medical licensing authority of that state or jurisdiction shall not be considered non-
8 practice. A Board-ordered suspension of practice shall not be considered as a period of non-
9 practice.

10 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
11 months, Respondent shall successfully complete the Federation of State Medical Boards' Special
12 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
13 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
14 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

15 Respondent's period of non-practice while on probation shall not exceed two years.

16 Periods of non-practice will not apply to the reduction of the probationary term.

17 Periods of non-practice for a Respondent residing outside of California will relieve
18 Respondent of the responsibility to comply with the probationary terms and conditions with the
19 exception of this condition and the following terms and conditions of probation: Obey All Laws;
20 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
21 Controlled Substances; and Biological Fluid Testing.

22 10. COMPLETION OF PROBATION. Respondent shall comply with all financial
23 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
24 completion of probation. Upon successful completion of probation, Respondent's certificate shall
25 be fully restored.

26 11. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
27 of probation is a violation of probation. If Respondent violates probation in any respect, the
28 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and

1 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
2 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
3 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
4 the matter is final.

5 12. LICENSE SURRENDER. Following the effective date of this Decision, if
6 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
7 the terms and conditions of probation, Respondent may request to surrender his license. The
8 Board reserves the right to evaluate Respondent's request and to exercise its discretion in
9 determining whether or not to grant the request, or to take any other action deemed appropriate
10 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
11 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
12 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
13 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
14 application shall be treated as a petition for reinstatement of a revoked certificate.

15 13. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
16 with probation monitoring each and every year of probation, as designated by the Board, which
17 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
18 California and delivered to the Board or its designee no later than January 31 of each calendar
19 year.

20 14. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
21 a new license or certification, or petition for reinstatement of a license, by any other health care
22 licensing agency in the State of California, all of the charges and allegations contained in the
23 Accusation shall be deemed to be true, correct, and admitted by Respondent for the purpose of
24 any Statement of Issues or any other proceeding seeking to deny or restrict such license or
25 certification.

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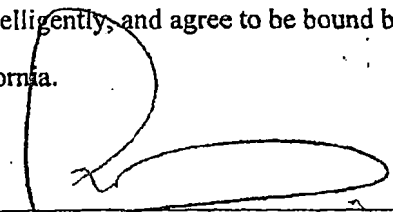
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ACCEPTANCE

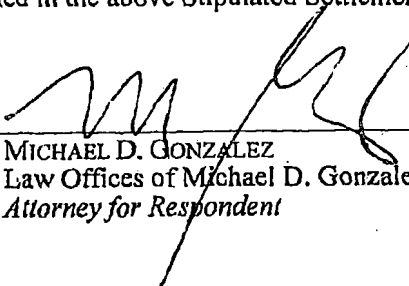
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Michael D. Gonzalez. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 7/21/20


K N SOLOMON MBAGWU, M.D.
Respondent

I have read and fully discussed with Respondent K N Solomon Mbagwu, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 7/21/20



MICHAEL D. GONZALEZ
Law Offices of Michael D. Gonzalez
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 22, 2020

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General


JOSHUA M. TEMPLET
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2017-034054

1 XAVIER BECERRA
2 Attorney General of California
3 E. A. JONES III
4 Supervising Deputy Attorney General
5 JOSHUA M. TEMPLET
6 Deputy Attorney General
7 State Bar No. 267098
8 California Department of Justice
9 300 So. Spring Street, Suite 1702
10 Los Angeles, CA 90013
11 Telephone: (213) 269-6688
12 Facsimile: (916) 731-2311
13 E-mail: Joshua.Templet@doj.ca.gov
14 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Feb. 4 20 20
BY *W. J. J. J.* ANALYST

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:

Case No. 800-2017-034054

14 **K N Solomon Mbagwu, M.D.**
15 **1218 S. Inglewood Avenue**
16 **Inglewood, CA 90301**

A C C U S A T I O N

17 **Physician's and Surgeon's Certificate**
18 **No. G 42217,**

Respondent.

19
20 **PARTIES**

21 1. Christine J. Lally (Complainant) brings this Accusation solely in her official capacity
22 as the Interim Executive Director of the Medical Board of California, Department of Consumer
23 Affairs (Board).

24 2. On or about July 1, 1980, the Medical Board issued Physician's and Surgeon's
25 Certificate Number G 42217 to K N Solomon Mbagwu, M.D. (Respondent). The certificate was
26 in full force and effect at all times relevant to the charges brought herein and will expire on
27 October 31, 2021, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2004 of the Code provides that the Board shall have the responsibility for the
6 enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

7 5. Section 2227 of the Code authorizes the Board to take action against a licensee who
8 has been found guilty under the Medical Practice Act by revoking his or her license, suspending
9 the license for a period not to exceed one year, placing the license on probation and requiring
10 payment of costs of probation monitoring, or taking such other action as the Board deems proper.

11 **STATUTORY PROVISIONS**

12 6. Section 2234 of the Code states:

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

16 ...

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

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

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

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1 FACTUAL ALLEGATIONS

2 7. Respondent is an obstetrician. On February 5, 2013, Respondent received a call about
3 patient P-1¹ from the obstetrics triage nurse, while he was on call in the emergency room. The
4 25-year-old patient was 31 weeks pregnant. She complained of back pain and cramping and said
5 that she had lost her mucous plug. The next day, on February 6, 2013, at 2:30 p.m., Respondent
6 admitted P-1 to the hospital with preterm premature rupture of the membranes (PPROM).
7 PPRM is a pregnancy complication in which the amniotic membrane surrounding the baby
8 ruptures before week 37 of pregnancy. Once the membrane ruptures, the mother has an increased
9 risk for infection and a higher chance of early delivery.

10 8. As the admitting obstetrician, Respondent performed a history and physical and
11 ordered an admitting prenatal panel of tests. He also ordered, among other things, a consultation
12 with a perinatologist; a loading, intravenous dose of ampicillin, an antibiotic; and a maintenance
13 dose of ampicillin every six hours thereafter.

14 9. The perinatologist also saw the patient on the day of her admission, on February 6,
15 2013, at 11:38 p.m. The perinatologist's assessment was consistent with Respondent's: PPRM
16 and not in labor. Her plan included intravenous antibiotics.

17 10. The standard of care for the administration of antibiotics to a patient less than 34
18 weeks pregnant with PPRM, during latency (before labor), was to provide a course of
19 intravenous antibiotics for 48 hours, including a combination of both ampicillin and
20 erythromycin, followed by oral amoxicillin and erythromycin. This broad spectrum of antibiotics
21 not only reduces fetal and maternal infections but also helps to prolong the pregnancy and reduce
22 gestational age-dependent morbidity.

23 11. While the patient regularly received ampicillin, per Respondent's order, including on
24 February 6, 2013, at 5:06 p.m., February 7, 2013, at 7:30 a.m., February 7, 2013, at noon,
25 February 7, 2013, at 6:00 p.m., and February 7, 2013, at 11:58 p.m., she did not receive any
26 erythromycin until February 8, 2019, at 12:15 p.m., nearly two days after her admission.

27 ¹ The patient is designated in this document as patient P-1 to protect her and her family's
28 privacy. Respondent knows the name of the patient and can confirm her identity through
discovery.

1 12. Respondent saw the patient on February 7, 2013, at 6:15 a.m. As of this time she had
2 not yet received any erythromycin. Respondent noted no changes in his examination of P-1 or his
3 plan for her care, and he did not order her any erythromycin. It was not until February 8, 2013,
4 that Respondent realized that erythromycin had not been ordered for the patient. By this time, she
5 was already in labor. Shortly after she received her first dose of erythromycin, the patient
6 delivered her baby, on February 8, 2013, at 2:20 p.m.

7 13. As the admitting obstetrician for P-1, Respondent's failure to ensure that the patient
8 timely received scheduled intravenous doses of erythromycin, an essential component of the
9 broad spectrum of antibiotics required by the standard of care, was a simple departure from the
10 standard of care.

11 14. During the course of Respondent's treatment of P-1, the patient exhibited signs of an
12 intraamniotic infection,² including development of significant temperature elevations during her
13 labor and elevated maternal and fetal heart rates. These signs in combination with the patient's
14 PPRM supported Respondent's diagnosis of the patient with an intraamniotic infection.

15 15. The standard of care to treat an intraamniotic infection during labor was to administer
16 broad spectrum antibiotics, including regular intravenous doses of a combination of both
17 gentamycin and another broad spectrum antibiotic, such as ampicillin or clindamycin. Such
18 treatment prevents and reduces significant morbidity and mortality in the fetus/newborn child and
19 mother. While under Respondent's care, P-1 received the wrong antibiotic while in labor.
20 Respondent ordered erythromycin for her, rather than gentamycin. Further, P-1's medical records
21 do not reflect that she received any ampicillin or other broad spectrum antibiotic, after
22 February 7, 2013, at 11:58 p.m.

23 16. Respondent's failure to ensure that P-1 received intravenous doses of both
24 gentamycin and another broad spectrum antibiotic, such as ampicillin or clindamycin, for the
25 treatment of intraamniotic infection was a simple departure from the standard of care.

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28 ² An intraamniotic infection, also known as chorioamnionitis, is an infection with resultant
inflammation of any combination of the placenta, fetus, fetal membranes, amniotic fluid, or
decidua.

1 CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct: Repeated Negligence)

3 17. Respondent is subject to disciplinary action under Code section 2234, subdivision (c)
4 (repeated negligent acts), in that Respondent committed repeated negligent acts in his care of P-1
5 as described above, including (i) by failing to ensure that the patient received scheduled
6 intravenous doses of erythromycin during the latency period of her pregnancy (before labor); and
7 (ii) by failing to ensure that the patient received intravenous doses of both gentamycin and
8 another broad spectrum antibiotic, such as ampicillin or clindamycin, for the treatment of
9 intraamniotic infection during labor.

10 DISCIPLINARY CONSIDERATIONS

11 18. To determine the degree of discipline, if any, to be imposed on Respondent,
12 Complainant alleges that, on or about March 1, 2016, in a prior disciplinary action titled *In the*
13 *Matter of the Reprimand Against K N Solomon Mbagwu, M.D.*, before the Medical Board of
14 California, in Case Number 800-2014-004271, the Board issued a Public Letter of Reprimand
15 against Respondent. The Public Letter of Reprimand was based on a Medical Board investigation
16 of Respondent's care of a pregnant, preterm patient who presented to the emergency room with
17 vaginal bleeding. Respondent was called telephonically, and he ordered an ultrasound.
18 Respondent then discharged the patient telephonically. Eight hours later the patient began
19 delivering the baby at home and was transported back to the emergency room, where the baby
20 was delivered stillborn. The Medical Board determined that Respondent failed to obtain the
21 cervical ultrasound findings, or if received, he failed to react to the situation with aggressive
22 antepartum management. In addition, the Medical Board determined that Respondent failed to
23 personally see and evaluate the patient. The Medical Board determined that Respondent's actions
24 constituted a violation of Code section 2234, subdivision (c) (repeated negligent acts).

25 19. The Public Letter of Reprimand is incorporated by reference as if fully set forth
26 herein.

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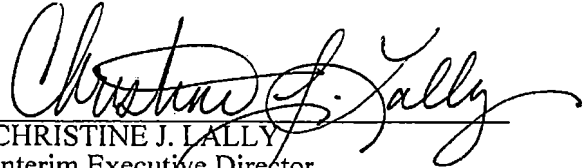
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PRAYER

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 Number G 42217, issued to K N Solomon Mbagwu, M.D.;
2. Revoking, suspending or denying approval of K N Solomon Mbagwu, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering K N Solomon Mbagwu, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: FEB 04 2020


CHRISTINE J. LALLY
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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