I

108TH CONGRESS
1ST SESSION

H. R. 1863

To declare adequate pain care research, education, and treatment as national public health priorities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 2003

Mr. ROGERS of Michigan introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Armed Services, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To declare adequate pain care research, education, and treatment as national public health priorities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''National Pain Care Policy Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. WHITE HOUSE CONFERENCE ON PAIN CARE.

(a) CONVENING.—Not later than June 30, 2004, the President shall convene a conference to be known as the White House Conference on Pain Care (in this section referred to as the ''Conference'').

(b) PURPOSES.—The purposes of the Conference shall be to—

(1) increase the recognition of pain as a significant public health problem in the United States;

(2) assess the adequacy of diagnosis and treatment for primary and secondary pain, including acute, chronic, intractable, and end-of-life pain;

(3) identify barriers to appropriate pain care, including—

(A) lack of understanding and education among patients, providers, regulators, and third-party payors;

(B) barriers to access to care at the primary, specialty, and tertiary care levels; and

(C) gaps in basic and clinical research on the symptoms and causes of, and potential treatments to improve, pain care; and

(4) establish an agenda for action in both the public and private sectors that will reduce such barriers and significantly improve the state of pain care research, education, and clinical care in the United States by 2010.

(c) CHAIR.—The Secretary of Health and Human Services shall serve as the chair of the Conference.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as shall be necessary for fiscal year 2004.

SEC. 3. NATIONAL CENTER FOR PAIN AND PALLIATIVE CARE RESEARCH.

(a) ESTABLISHMENT.—Section 401(b)(2) of the Public Health Service Act (42 U.S.C. 281(b)(2)) is amended by adding at the end the following:

''(H) The National Center for Pain and Palliative Care Research.''.

(b) OPERATION.—Part E of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by adding at the end the following:

''Subpart 7—National Center for Pain and Palliative Care Research

''SEC. 485I. ESTABLISHMENT.

''(a) ESTABLISHMENT.—The Secretary shall establish within the National Institutes of Health a center to be known as the National Center for Pain and Palliative Care Research (referred to in this subpart as the 'Center').

''(b) DIRECTOR.—The Center shall be headed by a Director (referred to in this subpart as the 'Director of the Center'), who shall be appointed by the Director of NIH after consultation with experts in the fields of pain and palliative care research and treatment.

''(c) POWERS OF SECRETARY AND DIRECTOR.—For purposes of section 405, the Center shall be treated as a national research institute.

''(d) GENERAL PURPOSES.—The general purposes of the Center are—

''(1) to improve the quality of life of individuals suffering from pain by fostering clinical and basic science research into the biology of pain and the causes of and effective treatments for pain;

''(2) to establish a national agenda for conducting and supporting pain and palliative care re-

search in the specific categories described in paragraphs (3) and (4);

''(3) to identify, coordinate, and support research, research training, and related activities (including the development of new and the refinement of existing treatments) with respect to both primary and secondary pain, including—

''(A) acute pain;

''(B) cancer and HIV-related pain, particularly at the end of life;

''(C) back pain, headache pain, and other chronic and intractable pain; and

''(D) other painful conditions;

''(4) to identify, coordinate, and support research, research training, and related activities with respect to palliative care;

''(5) to conduct and support pain and palliative care research, research training, and related activities that have been identified as requiring additional, special priority as determined appropriate by the Director of the Center and the Advisory Board established under subsection (e);

''(6) to coordinate all pain and palliative care research, research training, and related activities

being carried out among the national research institutes or in any such institute;

''(7) to ensure the prompt and effective dissemination of current and future research results to improve patient access to and provider delivery of pain and palliative care;

''(8) to initiate a comprehensive program of collaborative interdisciplinary research among schools, colleges, and universities, including schools of medicine and osteopathy, schools of pharmacy and pharmacology, schools of nursing, schools of dentistry, schools of physical therapy, schools of occupational therapy, and schools of clinical psychology, comprehensive health care centers and systems, and specialized centers of pain research or treatment; and

''(9) to report not less than annually on the state of public and private funding for pain and palliative care research and the adequacy of such funding, taking into account the specific categories described in paragraphs (3) and (4).

''(e) ADVISORY COUNCIL.—

''(1) IN GENERAL.—The Center shall have an advisory council to be known as the National Pain and Palliative Care Research Center Advisory Board (in this section referred to as the 'Advisory Board').

''(2) MEMBERSHIP.—The Advisory Board shall be established and maintained in accordance with section 406, except that—

''(A) the appointed voting members shall include—

''(i) representatives of the broad range of medical, health, and scientific disciplines involved in research and treatment related to the categories of pain and palliative care described in paragraphs (3) and (4) of subsection (d), including individuals with expertise and training in pain medicine, clinical psychology, physical medicine, and rehabilitative services (including physical therapy and occupational therapy), pharmacy and pharmacology, nursing, and dentistry; and

''(ii) representatives of painful patients; and

''(B) the nonvoting ex officio members shall include—

''(i) the Director of the National Cancer Institute;

''(ii) the Director of the National Institute of Dental and Craniofacial Research;

''(iii) the Director of the National Institute of Child Health and Human Development;

''(iv) the Director of the National Institute of Nursing Research;

''(v) the Director of the National Institute of Allergy and Infectious Diseases;

''(vi) the Director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases;

''(vii) the Director of the National Institute of Mental Health;

''(viii) the Director of the National Institute of Neurological Disorders and Stroke;

''(ix) the Director of the National Institute on Drug Abuse;

''(x) the Director of the National Institute on Disability and Rehabilitation Research;

''(xi) the Director of the National Institute of Biomedical Imaging and Bioengineering; and

''(xii) the Director of the National Bioethics Advisory Commission.

''(3) DUTIES.—The Advisory Board shall advise, assist, consult with, and make recommendations to the Director of the Center regarding the matters set forth in subsection (d), including coordination, research, funding, and purposes.

''(f) ESTABLISHMENT OF REGIONAL PAIN RESEARCH CENTERS.—

''(1) ESTABLISHMENT.—To facilitate and enhance the research, research training, and related activities to be carried out by the Center, the Director of NIH, in consultation with the Director of the Center and the Advisory Board, shall establish not less than 6 regional pain research centers, which shall operate as part of the Center.

''(2) FOCUS AND DISTRIBUTION.—

''(A) FOCUS.—Not less than 4 of the regional centers established under paragraph (1) shall have as their primary focus 1 of the categories of pain described in subparagraphs (A), (B), and (C) of subsection (d)(3).

''(B) DISTRIBUTION.—One regional pain research center shall be established in each of the following regions of the United States (as such regions are determined by the Director of the Center):

''(i) The Northeast region.

''(ii) The Southeast region.

''(iii) The Midwest region.

''(iv) The Southwest region.

''(v) The West region, including Hawaii.

''(vi) The Pacific Northwest region, including Alaska.

''(3) SELECTION.—The regional centers shall be selected through a competitive process from among institutions and centers of the type described in subsection (d)(8).

''(g) ANNUAL CONSENSUS CONFERENCE ON PAIN AND PALLIATIVE CARE RESEARCH.—To assist the Center in the establishment and maintenance of a national agenda for pain and palliative care research, and to ensure that the Center remains abreast of research and clinical developments in both the public and private sectors, the Director of the Center shall convene each year a consensus con-

ference of prominent researchers and clinicians in the field of pain and palliative care research and treatment.

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For the purpose of carrying out this section, there are authorized to be appropriated $40,000,000 for each of fiscal years 2004, 2005, and 2006, and such sums as may be necessary thereafter.

''(2) REGIONAL CENTERS.—Of the amount appropriated under paragraph (1) for fiscal year 2005 and each subsequent fiscal year, not less than $1,500,000 shall be made available to each of the regional centers established under subsection (f).''.

SEC. 4. PAIN CARE EDUCATION AND TRAINING.

(a) PAIN AND PALLIATIVE CARE RESEARCH AND QUALITY.—Part A of title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended by adding at the end the following:

''SEC. 904. PROGRAM FOR PAIN AND PALLIATIVE CARE RESEARCH AND QUALITY.

''(a) IN GENERAL.—The Director shall carry out a program to—

''(1) develop and advance the quality, appropriateness, and effectiveness of pain and palliative care; and

''(2) collect and disseminate protocols and evidence-based practices regarding pain and palliative care, including pain care for terminally ill patients, and make such information available to Federal, State, and local regulatory and enforcement agencies, public and private health care programs, payors and providers, health professions schools, hospices, and the general public.

''(b) DEFINITIONS.—For purposes of this section:

''(1) The term 'palliative care' means the comprehensive active, total care of patients whose disease or medical condition is not responsive to curative treatment or whose prognosis is limited due to progressive, far-advanced disease. Palliative care includes treatment to reduce or alleviate pain and other distressing signs and symptoms. The purpose of such care is to eliminate, alleviate, or manage the patient's pain and suffering and thereby enhance the quality of life.

''(2) The term 'pain care' means the evaluation, diagnosis, treatment, and management of primary and secondary pain, whether acute, chronic, persistent, intractable, or associated with the end of life.''.

(b) EDUCATION AND TRAINING IN PAIN AND PALLIATIVE CARE.—Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended—

(1) by redesignating sections 754 through 757 as sections 755 through 758, respectively; and

(2) by inserting after section 753 the following:

"SEC. 754. PROGRAM FOR EDUCATION AND TRAINING IN PAIN AND PALLIATIVE CARE.

"(a) IN GENERAL.—The Secretary, in consultation with the Director of the Agency for Healthcare Research and Quality, may make awards of grants, cooperative agreements, and contracts to health professions schools, hospices, and other public and private entities for the development and implementation of programs to provide education and training to health care professionals in pain and palliative care.

"(b) PRIORITIES.—In making awards under subsection (a), the Secretary shall give priority to awards for the implementation of programs under such subsection.

"(c) CERTAIN TOPICS.—An award may be made under subsection (a) only if the applicant for the award agrees that the program carried out with the award will include information and education on—

"(1) professionally recognized means for diagnosing and treating pain and related signs and

symptoms, including the medically appropriate use of controlled substances;

''(2) applicable laws on controlled substances, including the degree to which misconceptions concerning such laws or the enforcement thereof may create barriers to patient access to appropriate and effective pain care;

''(3) comprehensive interdisciplinary approaches to the delivery of pain and palliative care, including delivery through specialized centers of pain care treatment expertise; and

''(4) recent findings, developments, and improvements in the provision of pain and palliative care.

''(d) PROGRAM SITES.—Education and training under subsection (a) may be provided at or through health professions schools, residency training programs, and other graduate programs in the health professions, entities that provide continuing medical and pharmacy education, hospices, and such other programs or sites as the Secretary determines to be appropriate.

''(e) EVALUATION OF PROGRAMS.—The Secretary shall (directly or through grants or contracts) provide for the evaluation of programs implemented under subsection

(a) in order to determine the effect of such programs on knowledge and practice regarding pain and palliative care.

''(f) PEER REVIEW GROUPS.—In carrying out section 799(f) with respect to this section, the Secretary shall ensure that the membership of each peer review group involved includes individuals with expertise and experience in pain and palliative care.

''(g) DEFINITIONS.—For purposes of this section:

''(1) The term 'palliative care' means the comprehensive active, total care of patients whose disease or medical condition is not responsive to curative treatment or whose prognosis is limited due to progressive, far-advanced disease. Palliative care includes treatment to reduce or alleviate pain and other distressing signs and symptoms. The purpose of such care is to eliminate, alleviate, or manage the patient's pain and suffering and thereby enhance the quality of life.

''(2) The term 'pain care' means the evaluation, diagnosis, treatment, and management of primary and secondary pain, whether acute, chronic, persistent, intractable, or associated with the end of life.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 758 of the Public Health Service Act (as redesignated by

subsection (a)(1) of this section) is amended in subsection (b)(1)(C)—

(1) by striking ''sections 753, 754, and 755'' and inserting ''section 753, 754, 755, and 756''; and

(2) by striking ''$22,631,000'' and inserting ''$37,631,000''.

(d) TECHNICAL AMENDMENT.—Paragraph (2) of section 757(b) of the Public Health Service Act (as redesignated by subsection (a)(1)) is amended by striking ''754(3)(A), and 755(b)'' and inserting ''755(3)(A), and 756(b)''.

SEC. 5. PUBLIC AWARENESS CAMPAIGN ON PAIN MANAGEMENT.

Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following:

''NATIONAL EDUCATION OUTREACH AND AWARENESS CAMPAIGN ON PAIN MANAGEMENT

''SEC. 249. (a) ESTABLISHMENT.—Not later than June 30, 2004, the Secretary shall establish and implement a national education outreach and awareness campaign described in subsection (b) to provide information to the public on responsible pain management, related symptom management, and palliative care.

''(b) REQUIREMENTS.—The Secretary shall design the public awareness campaign under this section to edu-

cate consumers, patients, their families, and other caregivers with respect to—

''(1) the incidence and importance of pain as a national public health problem;

''(2) the adverse physical, psychological, and financial consequences that can result if pain is not appropriately diagnosed or treated;

''(3) the availability, benefits, and risks of all pain management and palliative care treatment options;

''(4) the right of patients to have their pain promptly assessed, appropriately treated, and regularly reassessed, and to have their treatment adjusted if needed;

''(5) the availability in the public, non-profit, and private sectors of pain management-related information, services and resources for consumers, patients, their families, and other caregivers, including information on—

''(i) appropriate assessment, diagnosis and treatment options for all types of pain and pain-related symptoms; and

''(ii) conditions for which no widely accepted treatment options are yet available; and

''(6) other issues the Secretary deems appropriate.

''(c) COORDINATION.—

''(1) LEAD OFFICIAL.—The Secretary shall designate one official in the Department of Health and Human Services to oversee the campaign established under this section.

''(2) AGENCY COORDINATION.—The Secretary shall ensure the involvement in the public awareness campaign under this section of the Surgeon General of the Public Health Service, the Director of the Centers for Disease Control and Prevention, and such other representatives of offices and agencies of the Department of Health and Human Services as the Secretary determines appropriate.

''(d) UNDERSERVED POPULATIONS.—In designing the public awareness campaign under this section, the Secretary shall take into account the need to reach underserved populations who are disproportionately under-treated for pain.

''(e) GRANTS AND CONTRACTS.—The Secretary may make awards of grants, cooperative agreements, and contracts to public agencies and private non-profit organizations to assist with the development and implementation of the public awareness campaign under this section.

''(f) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there are authorized to be appropriated $3,000,000 for each of fiscal years 2004, 2005 and 2006.''.

SEC. 6. PAIN CARE INITIATIVE IN MILITARY HEALTH CARE FACILITIES.

(a) REQUIREMENT.—Chapter 55 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 1111. Pain care

''The administering Secretaries shall develop and implement a pain care initiative in all health care facilities of the uniformed services. Implementation shall occur no later than January 1, 2004, in the case of inpatient care, and January 1, 2005, in the case of outpatient care. The initiative shall be designed to ensure that all members of the uniformed services and their dependents receiving treatment in health care facilities of the uniformed services—

''(1) are assessed for pain at the time of admission or initial treatment, and periodically thereafter, using a professionally recognized pain assessment tool or process; and

''(2) receive appropriate pain care consistent with recognized guidelines and practice parameters

for the assessment and treatment of primary and secondary pain, including acute, chronic, and intractable pain.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''1111. Pain care.''.

SEC. 7. PAIN CARE STANDARDS IN MEDICARE+CHOICE PLANS.

(a) IN GENERAL.—Section 1852(a) of the Social Security Act (42 U.S.C. 1395w–22(a)) is amended by adding at the end the following new paragraph:

''(6) PAIN CARE STANDARDS.—

''(A) IN GENERAL.—Each Medicare+Choice organization shall provide appropriate care for the treatment of patients in pain that—

''(i) is consistent with recognized guidelines and practice parameters for the assessment and treatment of primary and secondary pain, including acute, chronic, and intractable pain;

''(ii) includes evaluation and treatment of illnesses that frequently accompany serious pain, including depression,

other mental health disorders, sleep disturbance, and substance abuse;

"(iii) provides medical and other health services through physicians and other practitioners credentialed or experienced in pain medicine;

"(iv) provides for referral of patients with chronic pain as defined in subparagraph (B)(i) to specialists, and, where appropriate, to a comprehensive multidisciplinary pain management program as defined in subparagraph (B)(ii);

"(v) continues treatment for as long as treatment is required to maximize the quality of life and functional capacity of the patient; and

"(vi) permits physicians and other practitioners experienced or credentialed in pain medicine to make clinical decisions with respect to the need for and the extent and duration of pain care services.

"(B) DEFINITIONS.—For purposes of this paragraph:

"(i) CHRONIC PAIN.—The term 'chronic pain' means severe, persistent, or

recurrent pain that interferes with the activities of daily living, and has not been significantly reduced or ameliorated despite reasonable treatment efforts for a period of 6 months.

''(ii) COMPREHENSIVE MULTIDISCIPLINARY PAIN MANAGEMENT PROGRAM.—The term 'comprehensive multidisciplinary pain management program' means an inpatient or outpatient health care facility or program that—

''(I) provides at least medical, nursing, mental health, and rehabilitation services through licensed health care professionals;

''(II) provides or arranges for the provision of inpatient and outpatient hospital and rehabilitation facility services, drugs, devices, and other items and services required for the treatment of chronic pain;

''(III) provides ongoing patient and professional education for pain management;

''(IV) is accredited as a comprehensive pain management program by an accrediting organization approved by the Secretary, including the Joint Commission on the Accreditation of Health Care Organizations or the Rehabilitation Accreditation Commission; and

''(V) is directed by 1 or more physicians credentialed in pain medicine, or, where appropriate, dentistry, by a board or boards approved by the Secretary, which shall include the American Board of Pain Medicine and boards recognized by the American Board of Medical Specialists.

''(C) COMPLIANCE.—A Medicare+Choice organization may comply with the requirements set forth in this paragraph by providing care through its own network of participating providers, or under arrangement with out-of-network providers, but in no event may an organization impose higher costs on its enrollees in the form of deductibles, copayments, premiums, or otherwise in the event appropriate pain care

in accordance with the standards set forth in this paragraph is provided out-of-network.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contracts with Medicare+Choice organizations as of January 1, 2004.

SEC. 8. PAIN CARE STANDARDS IN TRICARE PLANS.

(a) IN GENERAL.—Section 1097 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(f) PAIN CARE STANDARDS.—

''(1) IN GENERAL.—Any health care services provided pursuant to any contract entered into under this section shall include the provision of appropriate care for the treatment of patients in pain that—

''(A) is consistent with recognized guidelines and practice parameters for the assessment and treatment of primary and secondary pain, including acute, chronic, and intractable pain;

''(B) includes evaluation and treatment of illnesses that frequently accompany serious pain, including depression, other mental health disorders, sleep disturbance, and substance abuse;

"(C) provides medical and other health services through physicians and other practitioners credentialed or experienced in pain medicine;

"(D) provides for referral of patients with chronic pain to specialists, and, where appropriate, to a comprehensive multidisciplinary pain management program;

"(E) continues treatment for as long as treatment is required to maximize the quality of life and functional capacity of the patient; and

"(F) permits physicians and other practitioners experienced or credentialed in pain medicine to make clinical decisions with respect to the need for and the extent and duration of pain care services.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) The term 'chronic pain' means severe, persistent, or recurrent pain that interferes with the activities of daily living, and has not been significantly reduced or ameliorated despite reasonable treatment efforts for a period of 6 months.

"(B) The term 'comprehensive multidisciplinary pain management program' means an inpatient or outpatient health care facility or program that—

"(i) provides at least medical, nursing, mental health, and rehabilitation services through licensed health care professionals;

"(ii) provides or arranges for the provision of inpatient and outpatient hospital and rehabilitation facility services, drugs, devices, and other items and services required for the treatment of chronic pain;

"(iii) provides ongoing patient and professional education for pain management;

"(iv) is accredited as a comprehensive pain management program by an accrediting organization approved by the Secretary, including the Joint Commission on the Accreditation of Health Care Organizations or the Rehabilitation Accreditation Commission; and

"(v) is directed by 1 or more physicians credentialed in pain medicine, or, where appropriate, dentistry, by a board or boards approved by the Secretary, which shall include the American Board of Pain Medicine and boards recog-

nized by the American Board of Medical Specialists.

''(3) COMPLIANCE.—A contractor may comply with the requirements set forth in this subsection by providing care through its own network of participating providers, or under arrangement with out-of-network providers, but in no event may a contractor impose higher costs on its enrollees in the form of deductibles, copayments, premiums, or otherwise in the event appropriate pain care in accordance with the standards set forth in this subsection is provided out of network.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contracts as of January 1, 2004.

SEC. 9. ANNUAL REPORT ON MEDICARE EXPENDITURES FOR PAIN CARE SERVICES.

Not later than December 31, 2004, and annually thereafter, the Administrator of the Centers for Medicare & Medicaid Services shall prepare and submit to the Congress a report on medicare expenditures for pain care during the preceding fiscal year. The report shall include the following:

(1) An estimate of total payments made under part B of the medicare program to physicians specializing in pain medicine.

(2) An estimate of payments made under such part B to other providers and suppliers for the provision of pain care items and services.

(3) An estimate of expenditures made under part A of the medicare program for the diagnosis and treatment of pain of inpatients, and an estimate of the percentage of such care that relates to end-of-life care.

(4) An estimate of expenditures under part C of the medicare program for the provision of pain care items and services through the Medicare+Choice program.

(5) An estimate of out-of-pocket expenditures by medicare beneficiaries for both prescription and nonprescription pain medications not covered by the medicare program.

(6) An analysis of trends in both medicare program and medicare beneficiary expenditures for pain care items and services.

SEC. 10. PAIN CARE INITIATIVE IN VETERANS HEALTH CARE FACILITIES.

(a) REQUIREMENT.—Subchapter II of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 1720F. Pain care

''The Secretary shall develop and implement a pain care initiative in all health care facilities of the Department. The initiative shall be designed to ensure that each individual receiving treatment in a health care facility under the jurisdiction of the Secretary—

''(1) is assessed for pain at the time of admission or initial treatment, and periodically thereafter, using a professionally recognized pain assessment tool or process; and

''(2) receives appropriate pain care consistent with recognized guidelines and practice parameters for the diagnosis and treatment of primary and secondarypain, including acute, chronic, and intractable pain.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1720E the following new item:

''1720F. Pain care.''.

(c) IMPLEMENTATION.—The Secretary of Veterans Affairs shall implement the pain care initiative required by section 1720F of title 38, United States Code, as added by subsection (a) not later than—

(1) January 1, 2004, in the case of inpatient care; and

(2) January 1, 2005, in the case of outpatient care.

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