

FEB 1 1966
HUMAN RESOURCES

HOUSE FILE 283
BY MASCHER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to health facility staffing standards and
2 providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HF 283

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1 Section 1. NEW SECTION. 135M.1 TITLE.

2 This chapter shall be known and may be cited as the "Safe
3 Staffing for Quality Care Act".

4 Sec. 2. NEW SECTION. 135M.2 FINDINGS.

5 The general assembly finds that:

6 1. The state has a substantial interest in assuring that
7 delivery of health care services to patients in health
8 facilities located within this state is adequate and safe and
9 that health facilities retain sufficient nursing staff in
10 order to promote optimal health care outcomes.

11 2. Recent changes in health care delivery systems are
12 resulting in a higher acuity level among patients in health
13 facilities.

14 3. Inadequate hospital staffing results in dangerous
15 medical errors and patient infections. Registered nurses
16 constitute the highest percentage of direct health care staff
17 in acute care facilities and have a central role in health
18 care delivery.

19 4. Mandatory overtime and lengthy work hours for direct-
20 care nurses constitute a threat to the health and safety of
21 patients, adversely impact the general well-being of nurses
22 and their families, and result in greater turnover, which
23 increases long-term shortages of nursing personnel.

24 5. To ensure the adequate protection of and care for
25 patients in health facilities, it is essential that qualified
26 registered nurses be accessible and available to meet the
27 nursing needs of patients. Inadequate and poorly monitored
28 nurse staffing practices, which result in having too few
29 registered nurses available to provide care, jeopardize
30 delivery of quality health care services and adversely impact
31 the health of patients who enter hospitals and outpatient
32 emergency and surgical centers.

33 6. The basic principles of staffing in health care
34 facilities should focus on patient health care needs and be
35 based on consideration of patient acuity levels and services

1 necessary to ensure optimal outcomes.

2 7. While the focus of this chapter is registered nurses
3 who are principal caregivers, safe staffing practices
4 recognize the importance of all health care workers in
5 providing quality patient care. Establishing staffing
6 standards for registered nurses shall not be interpreted as
7 justifying the understaffing of other critical health care
8 workers, including licensed practical nurses and unlicensed
9 assistive personnel. Indeed, the availability of these other
10 health care workers enables registered nurses to focus on the
11 nursing care functions that only registered nurses, by law,
12 are permitted to perform, and thereby contributes to the goal
13 of attaining adequate staffing levels.

14 8. To ensure patient safety, adequate hospital patient
15 acuity measurements must be in place and must be followed.

16 9. Establishing staffing standards for registered nurses
17 in acute care facilities will ensure that health facilities
18 throughout the state operate in a manner that guarantees the
19 public safety and the delivery of quality health care
20 services.

21 10. In order to meet the staffing standards established in
22 this chapter, the state recognizes the need to create
23 incentives to increase the number of registered nurses within
24 the state.

25 Sec. 3. NEW SECTION. 135M.3 DEFINITIONS.

26 As used in this chapter, unless the context otherwise
27 requires:

28 1. "Acuity system" means an established measurement
29 instrument that does all of the following:

30 a. Predicts nursing care requirements for individual
31 patients based on severity of patient illness, need for
32 specialized equipment and technology, intensity of nursing
33 interventions required, and the complexity of clinical nursing
34 judgment needed to design, implement, and evaluate the
35 patient's nursing care plan.

- 1 b. Specifies the amount of nursing care needed, both in
2 number of direct-care nurses and in skill mix of nursing
3 personnel required, on a daily basis, for each patient in a
4 nursing department or unit.
- 5 c. Is stated in terms that readily can be used and
6 understood by direct-care nurses.
- 7 d. Takes into consideration the patient care services
8 provided not only by registered nurses but also by licensed
9 practical nurses and other health care personnel.
- 10 2. "Assessment tool" means a measurement system that
11 compares the staffing level in each nursing department or unit
12 against actual patient nursing care requirements in order to
13 review the accuracy of an acuity system.
- 14 3. "Critical care unit" means a unit of a hospital that is
15 established to safeguard and protect patients whose severity
16 of medical condition requires continuous monitoring and
17 complex nursing intervention.
- 18 4. "Declared state of emergency" means an officially
19 designated state of emergency that has been declared by a
20 federal, state, or local government official having authority
21 to declare that the state, county, municipality, or locality
22 is in a state of emergency, but does not include a state of
23 emergency which results from a labor dispute in the health
24 care industry.
- 25 5. "Department" means the department of inspections and
26 appeals.
- 27 6. "Direct-care nurse" and "direct-care nursing staff"
28 mean a registered nurse or nurses with direct responsibility
29 to oversee or carry out medical regimens, nursing, or other
30 bedside care for one or more patients.
- 31 7. "Documented staffing plan" means a detailed, written
32 plan that specifies the minimum number and classification of
33 direct-care nurses required in each nursing department or unit
34 in the health care facility for a given year, based on
35 reasonable projections derived from the patient census and

1 average acuity level within each department or unit during the
2 prior year, the department or unit size and geography, the
3 nature of services provided, and any foreseeable changes in
4 department or unit size or function during the current year.

5 8. "Extended care facility" means a home health care
6 agency, a hospice, or a long-term care nursing facility.

7 9. "Health facility" means an acute care hospital, an
8 outpatient surgical facility, or an institution operating as a
9 psychiatric hospital or operating a designated psychiatric
10 unit, regulated by the department.

11 10. "Nurse" means an individual licensed to practice
12 professional nursing.

13 11. "Nursing care" means care which falls within the scope
14 of practice set forth in chapter 152 or is otherwise
15 encompassed within recognized professional standards of
16 nursing practice, including assessment, nursing diagnosis,
17 planning, intervention, evaluation, and patient advocacy.

18 12. "Off-duty" means, with reference to a health facility
19 employee, that the individual has no restrictions placed on
20 the individual and is free of all duty on behalf of the health
21 facility.

22 13. "On-duty" means, with reference to a health facility
23 employee, that the individual is required to be available and
24 ready to perform services on request within or on behalf of
25 the health facility and includes any rest periods or breaks
26 during which the individual's ability to leave the health
27 facility is restricted either expressly or by work-related
28 circumstances beyond the individual's control.

29 14. "Outpatient surgical facility" means the same as
30 defined in section 135.61.

31 15. "Skill mix" means the combination of licensing,
32 specialty, and experience levels among direct-care nurses.

33 16. "Staffing level" means the actual numerical nurse-to-
34 patient ratio within a nursing department or unit.

35 17. "Unit" means a patient care component within a

1 facility as defined by the department.

2 Sec. 4. NEW SECTION. 135M.4 HEALTH FACILITY STAFFING
3 STANDARDS.

4 1. A health facility, other than an extended care
5 facility, shall ensure that it is staffed in a manner that
6 provides sufficient, appropriately qualified direct-care
7 nurses in each department or unit within the facility in order
8 to meet the individualized care needs of its patients and to
9 meet the requirements specified in this section.

10 2. a. As a condition of licensure, each health facility,
11 annually, shall submit to the department a documented staffing
12 plan accompanied by a written certification that the staffing
13 plan is sufficient to provide adequate and appropriate
14 delivery of health care services to patients for the
15 subsequent year. The staffing plan shall do all of the
16 following:

17 (1) Meet the minimum requirements pursuant to paragraph
18 "b".

19 (2) Comply with all additional requirements established by
20 state or federal law or regulation.

21 (3) Identify and utilize an approved acuity system for
22 addressing fluctuations in actual patient acuity levels and
23 nursing care requirements that necessitate increased staffing
24 levels above the minimums specified in the plan.

25 (4) Factor in other unit or department activities such as
26 discharges, transfers and admissions, administrative and
27 support tasks that are expected to be performed by direct-care
28 nurses, in addition to direct nursing care activities.

29 (5) Factor in the staffing level of and services provided
30 by other health care personnel in meeting patient care needs.

31 (6) Identify the assessment tool used to validate the
32 acuity system relied on in the plan.

33 (7) Identify the system that will be used to document
34 actual staffing on a daily basis within each department or
35 unit.

1 (8) Include a written assessment of the accuracy of the
2 prior year's staffing plan compared with actual staffing
3 needs.

4 (9) Identify each nursing staff classification referenced
5 in the plan accompanied by a statement specifying minimum
6 qualifications for each referenced classification.

7 (10) Be developed in consultation with a majority of the
8 direct-care nursing staff within each department or unit or,
9 if the nursing staff is represented, with the applicable
10 recognized or certified collective bargaining representative
11 of the direct-care nursing staff.

12 b. The staffing plan shall incorporate, at a minimum, the
13 following direct-care nurse-to-patient ratios:

14 (1) For operating room and trauma emergency units: One
15 nurse to one patient.

16 (2) For all critical care areas, including emergency
17 critical care and all intensive care units, labor and delivery
18 units, and postanesthesia units: One nurse to two patients.

19 (3) For antepartum, emergency room, pediatrics, step-down,
20 and telemetry units: One nurse to three patients.

21 (4) For intermediate care nursery, medical or surgical,
22 and acute care psychiatric units: One nurse to four patients.

23 (5) For rehabilitation units: One nurse to five patients.

24 (6) For postpartum in three couplets and well-baby nursery
25 units: One nurse to six patients.

26 (7) For any units not listed in this paragraph "b",
27 including psychiatric units in facilities other than acute
28 care hospitals, such direct-care nurse-to-patient ratio as
29 established by the department.

30 c. The ratios established in paragraph "b" shall
31 constitute the minimum number of direct-care nurses to be
32 allocated within a department or unit. Additional direct-care
33 nurses shall be added and the ratio adjusted to ensure
34 adequate staffing of each nursing department or unit, in
35 accordance with an approved acuity system.

1 d. This subsection shall not be interpreted to preclude
2 the department from establishing and requiring a staffing plan
3 that provides for higher nurse-to-patient ratios than those
4 specified in paragraph "b".

5 e. The staffing plan shall not incorporate or assume that
6 nursing care functions required by state or federal law or
7 regulation, or accepted standards of practice to be performed
8 by a registered nurse, may be performed by other personnel.

9 Sec. 5. NEW SECTION. 135M.5 MANDATORY OVERTIME AND
10 EXCESSIVE DUTY HOURS.

11 1. a. Notwithstanding any other provision of law to the
12 contrary and subject only to the exceptions in this section, a
13 health facility shall not directly or indirectly mandate or
14 otherwise require a nurse to work or be in on-duty status, in
15 excess of any of the following:

16 (1) The scheduled work shift or duty period.

17 (2) Twelve hours in a twenty-four-hour period.

18 (3) Eighty hours in a fourteen-consecutive-day period.

19 b. As used in this section, "mandatory" or "mandate" means
20 any request which, if refused or declined by the health
21 facility nurse, may result in discharge, discipline, loss of
22 promotion, or other adverse employment consequence.

23 c. Nothing in this subsection is intended to prohibit a
24 health facility nurse from voluntarily working overtime.

25 2. a. A health facility nurse shall not work or be in on-
26 duty status in excess of sixteen hours in any twenty-four-hour
27 period.

28 b. A health facility nurse working sixteen hours in any
29 twenty-four-hour period shall be given at least eight
30 consecutive hours off duty before being required to return to
31 duty.

32 c. A health facility nurse shall not be required to work
33 or be on duty more than seven consecutive days without at
34 least one consecutive twenty-four-hour period off duty within
35 that time.

1 3. a. During a declared state of emergency in which a
2 health facility is requested or otherwise reasonably may be
3 expected to provide an exceptional level of emergency or other
4 medical services to the community, the mandatory overtime
5 prohibition specified in subsection 1, paragraph "a", shall
6 not apply to the following extent:

7 (1) Health facility nurses may be required to work or be
8 on duty up to the maximum hours limitation specified in
9 subsection 2, paragraph "a", provided the health facility has
10 taken the steps specified in paragraph "b" of this subsection.

11 (2) Prior to requiring any health facility nurse to work
12 mandatory overtime, the health facility shall make reasonable
13 efforts to fill the health facility's immediate staffing needs
14 through alternative efforts, including requesting off-duty
15 staff to voluntarily report to work, requesting on-duty staff
16 to volunteer for overtime hours, and recruiting per diem and
17 registry staff to report to work.

18 (3) The exemption under this paragraph "a" shall not
19 exceed the duration of the declared state of emergency or the
20 health facility's direct role in responding to medical needs
21 resulting from the declared state of emergency, whichever is
22 less.

23 b. During a declared state of emergency for which a health
24 facility is requested or otherwise reasonably may be expected
25 to provide an exceptional level of emergency or other medical
26 services to the community, the maximum hours limitation in
27 subsection 2, paragraph "a", shall be lifted to the following
28 extent:

29 (1) A health facility nurse may work or remain on duty for
30 more than the maximum hour limitations set forth in subsection
31 2, paragraph "a", provided that all of the following
32 conditions are met:

33 (a) The decision to work the additional time is
34 voluntarily made by the individual health facility nurse
35 affected.

1 (b) The health facility nurse is given at least one
2 uninterrupted four-hour rest period before commencing the
3 first sixteen hours of duty and an uninterrupted eight-hour
4 rest period at the completion of twenty-four hours of duty.

5 (c) A health facility nurse shall not work or remain on
6 duty for more than twenty-eight consecutive hours in a
7 seventy-two-hour period.

8 (d) A health facility nurse who has been on duty for more
9 than sixteen hours in a twenty-four-hour period who informs
10 the health facility that the nurse requires immediate rest
11 must be relieved from duty as soon as possible, consistent
12 with patient safety needs, and given at least eight
13 uninterrupted hours off duty before being required to return
14 for duty.

15 (2) As used in this paragraph "b", "rest period" means a
16 period in which an individual may be required to remain on the
17 premises of the health facility, but is not subject to
18 restraint or duty or responsibility for work or duty should
19 the occasion arise.

20 (3) The exemption in this paragraph "b" shall not exceed
21 the duration of the declared state of emergency or the health
22 facility's direct role in responding to medical needs
23 resulting from the declared state of emergency, whichever is
24 less.

25 4. A work shift schedule or overtime program established
26 pursuant to a collective bargaining agreement negotiated on
27 behalf of the health facility nurses by a bona fide labor
28 organization may provide for mandatory on-duty hours in excess
29 of those permitted under this section, provided adequate
30 measures are included in the agreement to ensure against
31 excessive fatigue on the part of the affected employees.

32 Sec. 6. NEW SECTION. 135M.6 DIRECT-CARE NURSE -- WORK
33 ASSIGNMENT POLICY.

34 1. As a condition of licensure, each health facility shall
35 adopt and disseminate to direct-care nursing staff a written

1 policy that complies with the requirements set forth in this
2 section detailing the circumstances under which a direct-care
3 nurse may refuse a work assignment. At a minimum, the work
4 assignment policy shall permit a direct-care nurse to refuse
5 an assignment for which:

6 a. The direct-care nurse is not prepared by education,
7 training, or experience to safely fulfill the assignment
8 without compromising or jeopardizing patient safety, the
9 direct-care nurse's ability to meet foreseeable patient needs,
10 or the direct-care nurse's license.

11 b. The direct-care nurse has volunteered to work overtime
12 but determines that the direct-care nurse's level of fatigue
13 or decreased alertness would compromise or jeopardize patient
14 safety, the direct-care nurse's ability to meet foreseeable
15 patient needs, or the direct-care nurse's license.

16 c. The assignment otherwise would violate requirements
17 specified in this chapter.

18 2. At a minimum, the work assignment policy shall contain
19 procedures for all of the following:

20 a. Reasonable requirements for prior notice to the nurse's
21 supervisor regarding the direct-care nurse's request and
22 supporting reasons for being relieved of the assignment or
23 continued duty.

24 b. If feasible, an opportunity for the supervisor to
25 review the specific conditions supporting the direct-care
26 nurse's request to be relieved of the assignment or continued
27 duty, and to decide whether to remedy the conditions, to
28 relieve the direct-care nurse of the assignment, or to deny
29 the direct-care nurse's request.

30 c. A process which permits the direct-care nurse to
31 exercise the right to refuse the assignment or continued on-
32 duty status when the supervisor denies the request to be
33 relieved if all of the following apply:

34 (1) The supervisor rejects the request without proposing a
35 remedy or the proposed remedy would be inadequate or untimely.

1 (2) The complaint and investigation process provided
2 through the department of inspections and appeals would be
3 untimely to address the concern.

4 (3) The direct-care nurse in good faith believes that the
5 assignment meets the conditions justifying refusal.

6 Sec. 7. NEW SECTION. 135M.7 HEALTH FACILITY NURSES --
7 RIGHTS.

8 1. A health facility shall not penalize or discriminate or
9 retaliate in any manner against a health facility nurse with
10 respect to compensation, terms, conditions, or privileges of
11 employment, who in good faith, individually, or in conjunction
12 with another person or persons does any of the following:

13 a. Reports a violation or suspected violation of this
14 chapter to a public regulatory agency, a private accreditation
15 body, or management personnel of the health facility.

16 b. Initiates, cooperates with, or otherwise participates
17 in an investigation or proceeding brought by a regulatory
18 agency or private accreditation body concerning matters
19 covered by this chapter.

20 c. Informs or discusses with other employees, with a
21 representative of the employees, with patients or a patient
22 representative, or with the public, violations or suspected
23 violations of this chapter.

24 d. Otherwise avails the nurse of the rights established in
25 this chapter.

26 2. For the purposes of this section, a health facility
27 nurse is deemed to act in good faith if the nurse reasonably
28 believes all of the following:

29 a. That the information reported or disclosed is true.

30 b. That a violation has occurred or may occur.

31 Sec. 8. NEW SECTION. 137M.8 VIOLATIONS -- RELIEF.

32 1. Any health facility that violates section 135M.5,
33 135M.6, or 135M.7 may be held liable to any nurse affected in
34 an action brought in a court of competent jurisdiction for
35 such legal or equitable relief as may be appropriate to

1 effectuate the purposes of this chapter, including but not
2 limited to reinstatement, promotion, payment of lost wages and
3 benefits, and payment of compensatory and consequential
4 damages resulting from the violation together with an equal
5 amount in liquidated damages. The court in such action shall,
6 in addition to any judgment awarded to the plaintiff, award
7 reasonable attorney fees and costs of action to be paid by the
8 defendant.

9 2. The nurse's right to institute a private action under
10 this section is not limited by any other rights granted under
11 this chapter.

12 Sec. 9. NEW SECTION. 135M.9 ENFORCEMENT -- PENALTIES.

13 1. A health facility shall post in a conspicuous place
14 readily accessible to the general public, a notice prepared by
15 the department of inspections and appeals specifying in
16 summary form the mandatory provisions of this chapter.

17 2. Mandatory and actual nurse staffing levels in each
18 nursing department or unit shall be posted daily in a
19 conspicuous place readily accessible to the general public.

20 3. a. Upon request, the health facility shall make copies
21 of the staffing plan, filed with the department of inspections
22 and appeals, available to the general public.

23 b. Each nursing department or unit within a health
24 facility shall post or otherwise make readily available to the
25 nursing staff, during each work shift, all of the following:

26 (1) A copy of the current staffing plan for that
27 department or unit.

28 (2) Documentation of the number of direct-care nursing
29 staff required to be present during the shift, based on the
30 approved adopted acuity system.

31 (3) Documentation of the actual number of direct-care
32 nursing staff present during the shift.

33 4. The department of inspections and appeals shall enforce
34 this chapter and shall adopt rules necessary for enforcement.
35 At a minimum, the rules shall provide for:

1 a. Unannounced, random compliance site visits to health
2 facilities.

3 b. An accessible and confidential system for the public
4 and nursing staff to report a health facility's failure to
5 comply with this chapter.

6 c. A systematic means for investigating and correcting
7 violations of this chapter.

8 d. Public access to information regarding reports of
9 inspections, results, deficiencies, and corrections.

10 e. A process for imposing penalties for violations of the
11 staffing requirements of this chapter.

12 5. The department of inspections and appeals and the
13 department of workforce development shall have concurrent
14 jurisdiction to ensure compliance with this chapter and to
15 implement rules and regulations as necessary or appropriate to
16 carry out this function.

17 6. A determination that a health facility has violated
18 this chapter may result in revocation of the health facility's
19 licensure.

20 7. a. A health facility that violates any staffing
21 requirements specified section 135M.4 is subject to a fine of
22 not less than fifteen thousand dollars per day, per violation,
23 for each day that the violation occurs or continues.

24 b. A health facility that fails to post a notice required
25 under this chapter is subject to a fine of one thousand
26 dollars per day for each day that the required notice is not
27 posted.

28 c. A health facility that violates the mandatory overtime
29 provisions of section 135M.5, the work assignment provisions
30 of section 135M.6, or the nurses' rights provisions of section
31 135M.7 is subject to a fine of fifteen thousand dollars per
32 violation.

33 d. A person or health facility that fails to report or
34 falsifies information, or coerces, threatens, intimidates, or
35 otherwise influences another person to fail to report or to

1 falsify information required to be reported under this
2 chapter, is subject to a fine of up to fifteen thousand
3 dollars for each such incident.

4 8. Upon investigation, the department of inspections and
5 appeals shall notify the health facility of all deficiencies
6 in the facility's compliance with this chapter and the rules
7 adopted under this chapter. The notice may include an order
8 to take corrective action within a specified time period,
9 including but not limited to any of the following:

10 a. Revising the facility staffing plan.

11 b. Reducing the number of patients within a nursing
12 department or unit.

13 c. Temporarily closing a nursing department or unit to any
14 further patient admissions until corrections are made.

15 d. Temporarily transferring patients to another nursing
16 department or unit within the facility until corrections are
17 made.

18 9. a. The department of inspections and appeals may issue
19 an order of correction as follows:

20 (1) On an emergency basis, without prior notice or
21 opportunity for a hearing, if an investigation determines that
22 patient care is being compromised in a manner that poses an
23 immediate jeopardy to the health or safety of patients.

24 (2) In accordance with the provisions for suspension of
25 licensure of a health facility in chapter 135B.

26 b. The order of correction shall be in writing and shall
27 contain a statement of the reasons for the order.

28 c. Upon the failure of a health facility to comply with an
29 order of correction in a timely manner, the department of
30 inspections and appeals may take such action the department
31 deems appropriate, including but not limited to:

32 (1) Appointing an administrative overseer for the
33 facility.

34 (2) Closing the facility or unit to patient admissions.

35 (3) Placing the health facility's emergency room on bypass

1 status.

2 (4) Revoking the health facility's license.

3 10. Any person who willfully violates this chapter in a
4 manner that evidences a pattern or practice of violations
5 which is likely to have a serious and adverse impact on
6 patient care or the potential for serious injury or death for
7 patients or employees is guilty of an aggravated misdemeanor.

8 11. a. A determination that a health facility has
9 violated the provisions of this chapter shall result in an
10 order of reimbursement to the medical assistance program or in
11 termination from participation in the medical assistance
12 program for a period of time to be determined by the
13 department of inspections and appeals in consultation with the
14 department of human services.

15 b. A health facility that falsifies or causes to be
16 falsified documentation required by this chapter shall be
17 prohibited from receiving any medical assistance reimbursement
18 for a period of six months.

19 EXPLANATION

20 This bill relates to staffing requirements for health
21 facilities. For the purposes of the bill, "health facility"
22 means an acute care hospital, an outpatient surgical facility,
23 or an institution operating as a psychiatric hospital or
24 operating a designated psychiatric unit, regulated by the
25 department of inspections and appeals.

26 The bill specifies nurse staffing standards, prohibits
27 mandatory overtime, specifies maximum hours that a health
28 facility nurse may work or be on duty, provides for exceptions
29 under a state of emergency, establishes requirements for a
30 direct-care nurse work assignment policy, establishes rights
31 for health facility nurses, and protects health facility
32 nurses from retaliation for reporting or otherwise publicizing
33 violations or suspected violations.

34 The bill provides for a private right of action for a nurse
35 if a health facility violates the provisions of the bill,

1 provides for public disclosure of violations of the bill,
2 provides for regulatory oversight by the department of
3 inspections and appeals, provides civil penalties, and
4 provides a criminal penalty of an aggravated misdemeanor which
5 carries with it a maximum penalty not to exceed two years and
6 a fine of at least \$500 but not to exceed \$5,000 for a willful
7 violation of the Code chapter that evidences a pattern or
8 practice of violation and is likely to have serious and
9 adverse impact on patient care or the potential for serious
10 injury or death for patients or employees. The bill also
11 provides for the loss of reimbursement for a health facility
12 under the medical assistance program for violation of the Code
13 chapter.

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