

Guidelines *for* **End of Life** **Decisions**

Patient, Physician, and
Family & Designating a
Patient Advocate



MICHIGAN
CATHOLIC
CONFERENCE

“Let me go to the house of the Father.”

The final words of Saint John Paul II

Dedicated to

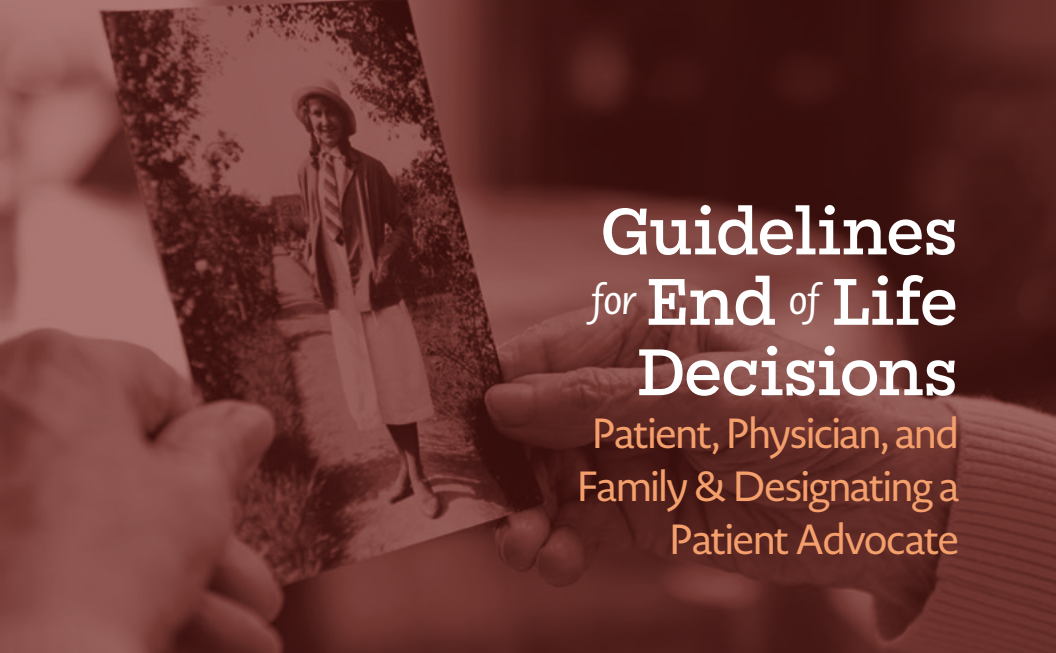
Reverend Walter A. Markowicz, Ph.D., S.T.L.
In gratitude for a lifetime of service to medical-moral education

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Modern medical technology offers many possibilities for prolonging life. At the same time, it takes us down uncharted paths and raises ever-new questions. While medicine offers the possibility of extending one's life, it is often at the price of burdensome treatments, physical pain, and many psychological and spiritual anxieties.

Clearly, people of faith face a dilemma regarding such end of life decisions. On the one hand, we see the dying process as something sacred, a final act of worship, and an opportunity for healing of relationships. On the other hand, we wonder:

- What is **medically** ordinary and extraordinary?
- What is **morally** obligatory and optional?
- Who should make such decisions?
- How can we ensure that our own wishes for health care will be honored if we are unable to articulate them?
- How can we prepare a loved one to make health care decisions ahead of time so these matters can be handled with minimal family tension?

These questions cannot be answered easily in the abstract. Neither physicians nor clergy have ready-made solutions. Cases vary greatly but there

are certain consistent principles Catholics should consider when making end of life decisions. In this booklet, we will outline these principles and suggest the use of a patient advocate as allowed by Michigan law.

“There are certain consistent principles Catholics should consider when making end of life decisions.”

Designation of Patient Advocate

I, _____ (the "Patient"), a resident of Michigan, designate the following persons, in the order named, first, _____ and second, _____ my patient advocate (called "Agent" in this document and to include "health care surrogate," "patient advocate" and similar terms) to make care, custody, and medical decisions, and, if applicable, mental health treatment decisions on my behalf. These decisions may include, but are not limited to, consenting to my placement in a hospital or other similar facility for care, consenting for my medical, surgical, and dental treatment, executing powers, medical authorizations, and other approvals required to authorize health care decisions, determining whether life support systems should be withheld or withdrawn from me, and, if applicable, consenting for my mental health treatment. My Agent may exercise this authority only when I am unable to participate in medical treatment decisions or mental health treatment decisions, if applicable.

If I am suffering from a physical illness, and there is a reasonable expectation of my recovery, I want to receive all life-saving and supportive measures. However, if I am suffering from a physical illness, and there is no reasonable expectation of my recovery, I want to be allowed to die and not kept alive by artificial means or heroic measures, including, but not limited to, cardiopulmonary resuscitation to restart my heart beating, and the use of a respirator if I cannot breathe. I ask that medication be administered to me to alleviate suffering even though the medication may hasten the time of my death. I acknowledge that a decision to withhold or withdraw treatment could or will allow my death.

Regarding nutrition and hydration, my Agent shall not consider the provision of food and water as heroic or extraordinary means. Food and water shall be provided to me as the provision of basic human needs.

Initial all of the following that you wish to apply (optional)

Anatomical Gifts (choose one)

- I give my Agent the authority to make anatomical gifts of all or part of my body. This authority remains exercisable after my death.
- I prohibit my Agent from making anatomical gifts of all or part of my body and expressly refuse to make anatomical gifts of all or part of my body. This refusal shall continue to apply after my death.

Mental Health Treatment (choose one)

- I do not authorize my Agent to make any decisions regarding my mental health treatment.
- I authorize my Agent to make decisions concerning my mental health treatment, including but not limited to executing an application for hospitalization for mental health treatment as a formal voluntary patient, appearing transfer to any hospital or a facility that is not a hospital, and giving permission for involuntary administration of medication. I waive my right to revoke this patient advocate designation as to the power to make mental health decisions. I realize that pursuant to this waiver I will not be able to revoke health care treatment for 30 days after I communicate my intent to revoke and that mental health treatment consented to by my Agent may continue to apply up to 30 days after I communicate my intent to revoke.

Acceptance of Designation of Patient Advocate

I have been designated as Agent ("patient advocate") by the Patient; I accept the designation and acknowledge that:

- This patient advocate designation is not effective unless the patient is unable to participate in decisions regarding the patient's medical or mental health, as applicable. If this patient advocate designation includes the authority to make an anatomical gift as described in section 3010, the authority remains exercisable after the patient's death.
- A patient advocate shall not exercise powers concerning the patient's care, custody, and medical or mental health treatment that the patient, if the patient were able to participate in the decision, could not have exercised on his or her own behalf.
- This patient advocate designation cannot be used to make a medical treatment decision to withhold or withdraw treatment from a patient who is pregnant that would result in the pregnant patient's death.
- A patient advocate may make a decision to withhold or withdraw treatment that would allow a patient to die only if the patient has expressed in a clear and convincing manner that the patient advocate is authorized to make such a decision, and that the patient acknowledges that such a decision could or would allow the patient's death.
- A patient advocate shall not receive compensation for the performance of his or her authority, rights, and responsibilities, but a patient advocate may be reimbursed for actual and necessary expenses incurred in the performance of his or her authority, rights, and responsibilities.
- A patient advocate shall act in accordance with the standards of care applicable to fiduciaries when acting for the patient and shall act consistent with the patient's best interests. The known desires of the patient expressed or evidenced while the patient is able to participate in medical or mental health treatment decisions are presumed to be in the patient's best interests.
- A patient may revoke his or her patient advocate designation at any time and in any manner sufficient to communicate an intent to revoke.
- A patient may waive his or her right to revoke the patient advocate designation as to the power to make mental health treatment decisions, and if such a waiver is made, his or her ability to revoke as to certain treatment will be delayed for 30 days after the patient communicates his or her intent to revoke.
- A patient advocate may revoke his or her acceptance of the patient advocate designation at any time and in any manner sufficient to communicate an intent to revoke.
- A patient identified to a health facility or agency has the rights enumerated in section 3020 of the public health code, 1978 PA 368, MCL 333.3020.

First designated Patient Advocate:

Second designated Patient Advocate:

_____ Name	_____ Name
_____ Address	_____ Address
_____ Date	_____ Date

Designation of Patient Advocate and Acceptance of Designation as Patient Advocate, forms included in this booklet



Implementing Michigan Law

Advance Health Care Directives

Advance health care directives ensure that your intentions for health care are adhered to in case you are unable to participate in medical or mental health treatment decisions. Although some states authorize the use of a “Living Will,” Michigan law provides for advance health care directives including a durable power of attorney and a designation of a patient advocate to name a proxy decision maker. According to Public Act 386 of 1998, as amended, the state of Michigan provides that a “patient” who is an individual eighteen years of age or older and of sound mind may designate a “patient advocate” to exercise powers concerning care, custody, and medical or mental health treatment decisions. You may choose a proxy decision-maker who is knowledgeable about your intentions and who can make health care choices for you in the event you are unable to participate in decisions regarding your medical or mental health treatment.

Documents Included in This Booklet

In accord with the above-mentioned statute, this booklet contains:

- Guidelines regarding end of life decisions...the Catholic Church's teaching and direction as a context for these decisions;
- *Designation of Patient Advocate*, a document designating a patient advocate, should you become unable to participate in your own medical or mental health decisions;
- *Acceptance by Patient Advocate*, a document indicating acceptance of designation by the patient advocate, intended for your physician, your family, your clergyman, and especially your Patient Advocate. It serves as a means to communicate to the designated advocate his or her duties under the law and to indicate to your physician that your designated Patient Advocate has agreed to serve in this capacity.

The forms contained in this booklet, *Designation of Patient Advocate* and *Acceptance by Patient Advocate*, may be duplicated.

After preparing the *Designation of Patient Advocate* document, a copy should be given to your physician, family, and your designated Patient Advocate. Your Patient Advocate cannot act until he or she has signed the Acceptance, the document is a part of your medical file, and two doctors have certified that you are unable to participate in decisions regarding your medical or mental health. A periodic review and renewal of this document is advisable.

“Advance health care directives ensure that your intentions for health care are adhered to in case you are unable to participate in medical or mental health treatment decisions.”



Guidelines from the Church

Extraordinary Means Not a Requirement

Over the last half-century, we have received helpful guidance from various Church documents, including Encyclicals, Declarations from Vatican Congregations, and Papal addresses. In the 1950s, Pope Pius XII reiterated the long held distinction in the Catholic moral tradition on end of life issues between “ordinary” and “extraordinary” means. The principle the Holy Father articulated remains valid to this day: we have a moral obligation to take **ordinary** means to preserve life, but no one is obliged to take **extraordinary** means.

The Congregation for the Doctrine of the Faith, in their 1980 *Declaration on Euthanasia*, allows patients to forego aggressive “medical treatments” which would be disproportionate to any expected results, if such treatments would impose an excessive burden on the patient and the family. The Congregation noted, however, the duty of providing the “normal care” due a sick person. What is such “normal care”—does it include food and hydration?

Food and Hydration, in Principle, Are Ordinary Treatment

In his March 20, 2004, address to the participants in the International Congress on “Life-Sustaining Treatments and Vegetative State,” Saint John Paul II said that food and hydration “*should be considered, in principle, ordinary and proportionate, and, as such, morally obligatory*”:

“Food and water, even when provided by artificial means, always represents a *natural means* of preserving life, not a *medical act*. Its use, furthermore, should be considered, in principle, *ordinary and proportionate*, and, as such, morally obligatory, insofar as and until it is seen to have attained its proper finality, which in the present case consists in providing nourishment to the patient and alleviation of his suffering.”

Saint John Paul II also stated that a patient in a “permanent vegetative state” still retains personal dignity; and, therefore, should never be considered “a vegetable” or an “animal.” He further stated that such a person has a basic right to health care (such as nutrition, hydration, cleanliness, warmth, etc.) and a right to appropriate rehabilitative care and continued monitoring for clinical signs of possible recovery. Moreover, he taught that even when there are waning hopes for recovery and the vegetative state is prolonged beyond a year, in the case of artificial delivery of nutrition and hydration, there is still no justification for ceasing or interrupting this minimal care so long as it attains nourishment for the patient.

Use of Painkillers: A Free Choice

Some methods of palliative care bring comfort to the person in pain and the family by use of painkillers; they make suffering more bearable in the final stages of illness. As Saint John Paul II discussed palliative care in his Encyclical, *Gospel of Life*, he said it is acceptable to relieve pain by narcotics, even if such intervention decreases consciousness and shortens the patient’s life (Saint John Paul II. *Gospel of Life (Evangelium Vitae)*, 1995, 65).

Some people have the strength of spirit to forego the use of painkillers and choose to share with full awareness in the Lord’s Passion; such behavior is heroic and commendable, but not expected or required. Certainly, some

physical suffering is part of the human condition and, when accepted with an obedient heart, it can build up the Body of Christ (see Colossians 1:24).

Euthanasia: A False “Solution”

Saint John Paul II repeatedly cautioned against the growing popularity of mercy killing, which seeks to end another person’s life for the express purpose of eliminating suffering. Such direct intervention is actually “euthanasia,” the willful destruction of life. There is a world of difference between euthanasia—a deliberate choice to terminate life—and the very legitimate decision to forego excessive treatment or therapy.

The Larger Context of Family and Eternity

In the Catholic tradition, the family plays a critical role in decision making. No one of us lives or dies alone; our decisions have an impact on others. Furthermore, the body in its present state is not an absolute good in itself; we are destined for eternal life.

“There is a world of difference between euthanasia—a deliberate choice to terminate life—and the very legitimate decision to forego excessive treatment or therapy.”



Patient Advocate Designation Decisions

A *Designation of Patient Advocate* is a legal tool used to appoint another person to act on your behalf if you are no longer able to do so yourself. The person you appoint becomes and is called your “Patient Advocate” or “agent” for medical and mental health treatment decisions.

This person is legally empowered specifically to make health care decisions for you when you no longer can do so. Your Patient Advocate can make health care decisions for you in light of circumstances or conditions which may not have been included in your advance directives. The Patient Advocate, using your known wishes as a guide, but considering the present circumstances, determines what is best for you.

“An incompetent person may have made known that a particular course of action be followed, but circumstances may have so changed that the proxy (agent) believes the incompetent patient would judge differently were he or she able to do so. For example, a person may have declared that given a certain physiological condition or disease, that all life support should be removed. But the proxy might determine to continue therapy in order to have the family gather before death, to alleviate pain, or to restore consciousness for spiritual purposes. The proxy should never carry out unethical actions, for example, acts constituting euthanasia, even if this is the known wish of the incompetent person. If the patient’s wishes are

not known, the proxy should consider what would be reasonable care for this patient.” —Reverend Kevin O’Rourke, O.P.

You may choose any adult as your Patient Advocate who should be someone whom you trust and with whom you have discussed your desires and your values with respect to health care issues. Your Patient Advocate should understand your feelings and positions about your various health care decisions.

In order to authorize your patient advocate to make mental health treatment decisions for you, you must specifically give him or her that authority. If you decide that you want your patient advocate to have the authority to make mental health treatment decisions, then you also need to decide if you want your patient advocate to be able to consent to involuntary administration of medications and to consent to voluntary inpatient hospitalization. It is recommended that you consult with your attorney and your doctor before executing a *Designation of Patient Advocate* form for mental health treatment decisions.

You have the right to revoke your *Designation of Patient Advocate*; however, you can waive your right to revoke (relative to mental health treatment decisions), but not for more than thirty days. If you so waive your right to revoke, you assume control of your mental health decisions thirty days later and mental health treatment consented to by your Patient Advocate may continue for up to thirty days after you communicate your intent to revoke.

The sample *Designation of Patient Advocate* form contains three choices pertaining to mental health treatment decision. Please review the three choices and place your initials next to the option that you prefer. If you do not wish to select one of the options, that would be the equivalent of choosing option one (Note: these options are detailed on the attached form).

There are also two choices in the sample *Designation of Patient Advocate* form relating to anatomical gifts. These gifts are also known as organ/tissue donations. For example, if someone is awaiting a kidney transplant but there are no available organs, upon your death, your patient advocate could give a gift of your kidney to help that other person live a longer life. Please indicate your preference by selecting the first option if you would

like your agent to be able to make anatomical gifts, or the second option if you do not want your agent to make such gifts. If you do not select one of these options, that would leave the choice up to your next of kin (your closest living relative at your death).

The Patient Advocate must accept the “designation” in writing that acknowledges, among other things, that:

- the *Designation of Patient Advocate* becomes effective only if and when the patient is unable to participate in decisions regarding his or her medical or mental health;
- a Patient Advocate may not withhold or withdraw treatment from a pregnant patient that would result in her death;
- a Patient Advocate may make a decision to withhold or withdraw treatment which would allow a patient to die only if the patient has expressed in a clear and convincing manner that the Patient Advocate is authorized to make such a decision, and that the patient acknowledges that such a decision could or would allow the patient’s death;
- a Patient Advocate shall not exercise powers concerning a patient’s care, custody, and medical or mental health treatment that the patient, if the patient were able to participate in the decision, could not have exercised on his or her own behalf;
- a designation executed shall not be construed to condone, allow, permit, authorize or approve suicide or homicide.

Probate Court intervention may be used to resolve the following disputes:

- whether the patient has the capacity to make medical or mental health decisions;
- whether a patient intends to revoke a particular Patient Advocate designation;
- whether a Patient Advocate is acting consistent with the patient’s best interest.

The Patient Advocate must be eighteen years or older. The “designation” must be in writing and signed by two disinterested witnesses.

The *Designation of Patient Advocate* may be revoked by the patient at any time in any manner, calculated to demonstrate the intent to revoke by the patient, either in written, oral, or other form.

A copy of the *Designation of Patient Advocate* form should be provided to the Patient Advocate, to the individual's treating physician, and to the appropriate family members.

Note: Witnesses must be disinterested individuals and cannot be the person's spouse, parent, child, grandchild, sibling, presumptive heir, known devisee at the time of the witnessing, physician, patient advocate, employee of a life or health insurance provider for the patient, employee of a health facility that is treating the patient, employee of a home-for-the-aged, or an employee of a community mental health services program or hospital that is providing mental health services to the patient.

“The Designation of Patient Advocate
may be revoked by the patient
at any time in any manner...”

Acknowledgments

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Michigan Catholic Conference

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Saint John Paul II

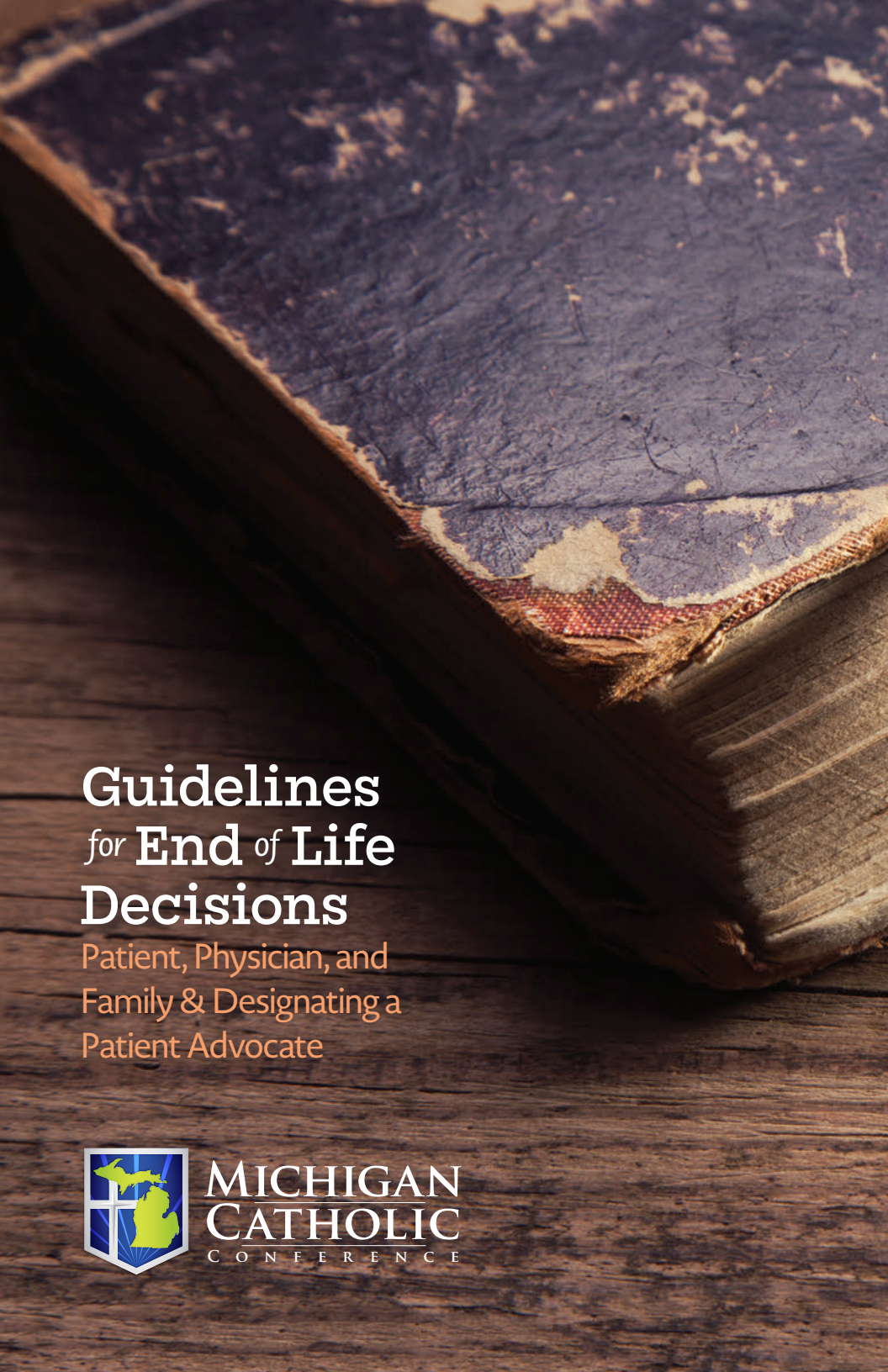
- Address to the Participants in the International Congress on “Life-Sustaining Treatments and Vegetative State: Scientific Advances and Ethical Dilemmas”, The Vatican, 20 March 2004.
- *Gospel of Life (Evangelium Vitae)*, 1995.

The Michigan Catholic Conference
reaffirms the Catholic Church's
belief in the value and dignity of
human life and the respect due
to each individual person.

This booklet has been prepared to assist in your discernment regarding the various types of medical treatment that you may or may not wish to have.

Information on the Designation of Patient Advocate is based on Michigan Public Act 368 of 1998, as amended. This information is not intended to serve as legal advice. Any legal advice needed for a particular situation should be obtained from an attorney.

Additional copies of this booklet and forms may be obtained at the Michigan Catholic Conference website: micatholic.org.



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