

 Council on Licensure, Enforcement and Regulation
2011 Annual Educational Conference




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Substance Abuse: Two Regulatory Approaches that Protect the Public

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Promoting Regulatory Excellence

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Substance Abuse: Two Regulatory Approaches that Protect the Public

- Objectives
 - Recognize chemical dependency as a disease
 - Describe physical and psychosocial characteristics of impaired professionals


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Substance Abuse: Two Regulatory Approaches that Protect the Public (cont'd)

- Objectives
 - Discuss regulatory responsibilities for chemically dependent professionals
 - Analyze through case studies the outcomes of regulatory discipline and alternative to discipline monitoring programs for professionals


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Substance Use Disorder

- Substance use disorder: ranges from abuse to dependency/addiction to alcohol or drugs
- Addiction: a chronic, relapsing brain disease that is characterized by compulsive use of mind altering chemicals (drugs or alcohol) and use despite harmful consequences


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Substance Use Disorder (cont'd)

- Having a physical and/or psychological dependence on a substance
- Physical dependency is associated with the development of tolerance and the presence of symptoms when the drug is withdrawn


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Substance Use Disorder (cont'd)

- Negative consequences not only for the addicted
 - Family
 - Friends
 - Economically
 - Spiritually


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Substance Use Disorder (cont'd)

- Negative consequences not only for the addicted
 - Socially
 - Physically
 - Legally
 - Professionally


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Myths and Facts

- Addiction is a bad habit, moral weakness and over indulgence.
- Addiction is a chronic, life threatening disease that has roots in genetic susceptibility, social circumstance, and personal behavior.


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Myths and Facts (cont'd)

- If an addict has enough willpower, they will stop using drugs.
- Few people addicted to alcohol and other drugs cannot simply stop using, no matter how strong their resolve. Substance abuse treatment is needed to reduce or end their dependence on alcohol or other drugs.


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Myths and Facts (cont'd)

- Many people relapse, so treatment obviously does not work.
- Addiction treatment cannot guarantee lifelong health and sobriety. Relapse is part of recovery.


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Warning Signs

- Increase in tolerance, amounts and frequency
- Changes in personality and mood swings
- Defensiveness when confronted about chemical use - excuses, promises, lying, denying, blaming
- Changes in lifestyle to one more centered on chemical use


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Warning Signs (cont'd)

- Trouble at home, school, and or work
- Withdrawal from family, friends, colleagues, and activities
- Slurred Speech
- Shakiness and Tremors


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Warning Signs (cont'd)

- Hyperactivity or sedation
- Unsteady gait
- Impaired concentration
- Weight loss


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Incidence of Substance Abuse

- General population - estimated that 10% of the population has the disease of addiction
- Health care professionals - 10% to 18% of nurses, doctors, pharmacists, dentists
- Nurses are equally susceptible to alcoholism, but are at higher risk for drug addiction


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Incidence of Substance Abuse (cont'd)

- Approximately 75,000 nurses in KY
- Estimated that 7,500 or 10% of nurses in KY are at risk of the disease
- Highest risk of nurse groups - nurse anesthetists, emergency room, operating room, intensive care unit


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Why are Nurse's at a Higher Risk of Drug Addiction?

- Witness the cause and effect of medications
- Consequences of misuse are not stressed enough at home and school
- Presumption that education equals immunity
- Pharmacological aspects
- Work environment


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Profile of a Chemically Dependent Nurse

- Usually occurs in adult life, but is a slow progression
- History of chemically dependent family
- Usage is solitary, not social


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Profile of a Chemically Dependent Nurse (cont'd)

- Continues to feel responsible about work
- Street crime not a means to obtain drugs until terminated from their employer (source)
- Is demanding of self; denies stress, depression, unhappiness


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Profile of a Chemically Dependent Nurse (cont'd)

- Expresses more guilt/shame about drug usage
- Usually graduated in upper portion of nursing program
- Have demanding and responsible jobs
- Are highly respected for excellent work


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Signs and Symptoms - Job Performance

- Comes to work early, stays later, or volunteers extra
- Appears on the unit on days off
- Frequently unexplained absences from unit
- Frequent bathroom breaks


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Signs and Symptoms - Job Performance (cont'd)

- Mood changes after returning from breaks/mealtimes
- Frequently tardy or uses sick leave lavishly
- Excessive medication errors
- Illogical/sloppy charting or absence of charting


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Signs and Symptoms - Job Performance
(cont'd)

- Excessive narcotic withdrawals by the same nurse
- Large amounts of wasted narcotics (dropped, spilled or broken) by the same nurse
- Preoccupied with narcotics, volunteering to medicate co-workers patient's
- Discrepancies between the narcotic record and the patient record


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Signs and Symptoms - Job Performance
(cont'd)

- Discrepancies between the patient's reported level of pain relief and the patient record
- Falsified physician orders for narcotics (verbal or telephone)
- Evidence of vial tampering
- Utilized another nurse's code to gain access from the automated dispensing system


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Kentucky Board of Nursing

- Protect and safeguard the health and safety of the public - KRS 314.021(1)
- Maintain the integrity of the nursing profession


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Mandatory Reporting

- Kentucky is a mandatory reporting jurisdiction KRS 314.031(4)
- Who is required to report?
 - Any nurse
 - Employer of a nurses
 - Anyone who has knowledge of a potential violation


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Types of Violations

- Negligently or willfully acting in a manner inconsistent with the practice of nursing
- Unfit or incompetent to practice safely
- Abusing controlled substances, prescription medication, illegal substances or alcohol
- Misusing or misappropriating drugs placed in the custody of the nurse for administration


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Types of Violations (cont'd)

- Falsifying or in a negligent manner making incorrect entries, or failing to make essential entries
- Criminal convictions
- Disciplinary actions taken by another state
- Practicing without a license


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Investigation & Discipline

- Subpoena power
- Criminal background checks
- Kentucky All Schedule Prescription Enforcement Reporting (KASPER)
- Physical/mental health/chemical dependency evaluations
- Health Insurance Portability and Accountability Act (HIPAA)

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Investigation & Discipline
(cont'd)

- Cases generally come in via a complaint and follow the disciplinary tract resulting in ACTION against the nursing license

OR

- A referral to the Board's Kentucky Alternative Recovery Effort (KARE) for Nurses Program


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Investigation & Discipline
(cont'd)

- Notice of complaint letter
- Copy of the complaint
- Response form to current mailing address
- Thirty (30) days to respond
- Investigator assigned


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Investigation & Discipline (cont'd)

- Immediate temporary suspension
- Investigative meeting
- Potential witness interviews
- Site visits


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Investigation & Discipline (cont'd)

- Case resolution:
 - Credentials Review Panel
 - Dismissal
 - Letter of Concern
 - Consent Decree
- Hearing
- Agreed Order


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Incidence of Substance Abuse

- Approximately 75,000 nurses in KY
- 10% of those nurses or 7,500 in KY - estimated
- Highest risk of nurse groups - nurse anesthetists, emergency room, operating room, intensive care unit


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Investigation & Discipline Statistics

- FY 2005 - 2010 = 284 actions against nurses involving drugs/alcohol
- FY 2005 - 2010 = 23 successfully completed requirements of action
- Data skewed: does not mean the remaining 261 failed to complete, although it is possible they did violate the order/decision. It is also possible they may still be on limitation/probation or never chose to reinstate their license.


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Kentucky Alternative Recovery Effort (KARE) Program for Nurses

- Identify and assist nurses whose abilities to practice nursing are compromised by dependency on alcohol or other drugs of abuse so that they may return to competent and safe nursing practice
- Established January 2001


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KARE (cont'd)

- Kentucky Revised Statute 314.171
 - Alternative to discipline program
 - Authority for administrative regulations
 - Non-liability for actions
 - Confidentiality of materials and proceedings
 - Disclosure of information


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KARE (cont'd)

- Nurses with chemical dependency (alcohol and drugs of abuse)
- Voluntary, semi-confidential program
- Alternative to disciplinary action
- Admit to misuse/abuse of alcohol or drugs in writing


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KARE (cont'd)

- Five (5) year legal contract
- Submit to random urine drug/alcohol testing @ their own expense
- Individual/group counseling
- Twelve (12) Step group attendance
- Obtain a sponsor and maintain contact


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KARE (cont'd)

- Monitor nursing practice for length of program
- Inform nurse employer of KARE for nurses program agreement
- Provide copy to immediate nursing supervisor
- Employer must submit work performance evaluations every four (4) months


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KARE (cont'd)

- Practice limitations:
 - Limit of eighty-eight (88) hours/two (2) weeks
 - Narcotic limitations
 - Supervision of nursing practice
 - No management responsibilities for at least three (3) years


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KARE (cont'd)

- Drugs of Choice:
 - Pain pills: Opiates, i.e. Lortab, Oxycontin
 - Alcohol
 - Poly-substances: more than two (2) drugs of abuse or drug of abuse and alcohol


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Literature Review

- A review of the literature concerning substance abuse and alternative to discipline programs was not beneficial related to programs not being standardized:
 - Admission requirements
 - Length of the program
 - Requirements for monitoring


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KARE Statistics

- FY 2001 - 2006 Admissions = 245
- Initial cohorts completed between 2006 - 2011 - 145 participants have completed
- Success rate 60%


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KARE Statistics (cont'd)

- Level of licensure (licensed practical nurse (LPN), registered nurse (RN), Advanced Practice Registered Nurse (APRN) does not seem to be a factor
- Relapse does not always lead to suspension, consider part of the disease


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KARE Recidivism

- 145 KARE participants graduated from the program
- 15 individuals or ~ 10% of the graduates were readmitted to KARE

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Discipline Case Study # 1

- Name: Joe
- Title: Advanced Practice Registered Nurse (APRN), Nurse Anesthetist (NA)
- Age at the time of the complaint: thirty-six (36) years old


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KY Licensure

- July 2001 applied for RN licensure by endorsement
- August 2001 applied for APRN, NA, by endorsement
- End of August 2001, KBN issued Temporary Work Permit (TWP) for RN in KY and Temporary Authorization to Practice (TAP) for APRN,NA, in KY


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Original Complaint

- January 2002: acute care hospital in northeastern, submitted written complaint to KBN
- Withdrew excessive quantities of narcotics
- Primary substances diverted: Demerol, Versed, and Fentanyl


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Investigation

- Subpoena medical records, Pyxis reports, personnel file, facility investigative file:
 - Removed narcotics from Pyxis on patients that were never under his care: ER, outpatient chemotherapy, labor/delivery, observation, medical/surgical
 - Excessive quantities
 - Medical records did not correspond with Pyxis report


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Investigation (cont'd)

- Witness statements:
 - Peers admitted after the fact that they actually did not “witness” him waste narcotics, but they signed for him
 - Behavior: confused, sleepy, memory lapses


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Investigation (cont'd)

- Court records resulted in second complaint for unreported conviction in OH:
 - Menacing, misdemeanor, October 31, 2001 (original charge was Aggravated Assault, 1st Degree) threatened to kill his ex-wife
 - Sentenced to one (1) year probation and one (1) day anger management


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Investigation (cont'd)

- Site visit
- Collaboration with other boards of nursing and law enforcement


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Discipline Case Study Resolution

- KBN voided both TWP and TAP in January 2002
- Ordered chemical dependency evaluation
- Pre-hearing conference held
- Default entered April 2002
- Denied licensure for RN and APRN for at least ten (10) years and will require a hearing to reinstate


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Discipline Case Study Resolution (cont'd)

- Guilty of KRS 314.091(1)
- Denied licensure for at least ten (10) years
- Hearing required to consider licensure
- Civil penalty of \$10,000 paid in full before hearing
- Drug/alcohol terms


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Discipline Case Study # 2

- Name: Ellen
- Title: RN, ADN
- Age at the time of the complaint: fifty-six (56) years old


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Original Complaint

- **July 2002 self reported criminal convictions dated May 2002**
 - Reckless Homicide, felony
 - Driving Under Influence, 1st Offense, misdemeanor
 - Sentenced to imprisonment for a maximum term of two (2) years in a state facility
 - After two (2) months, released from prison, placed on shock probation for five (5) years

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Investigation

- Certified copies of court records
- Personnel file
- Chemical dependency evaluation


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Her Story

- Employed as Director of Nursing at facility in North Central KY at time of incident
- Met partner at a party
- Alcohol and marijuana


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Her Story (cont'd)

- Car accident
- Imprisonment
- Demotion


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Discipline Case Study Resolution

- Guilty of violating KRS 314.091(1)
- Placed on limitation/probation for three (3) years or until completion of court ordered probation
- Employer reports/Probation compliance reports
- Monthly participation in support group meeting
- Random drug/alcohol testing


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Discipline Case Study Resolution (cont'd)

- Prescription verification
- Civil penalty of \$900
- Continuing education
- Completed limitation/probation May 2005
- Continues to be licensed in KY without further incident and remains gainfully employed


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KARE Case Study # 1

- Name: Scott
- Age at the time of the complaint: thirty-six (36)
- Title: Advanced Practice Registered Nurse (APRN), Nurse Anesthetist (NA)


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Educational and Licensure Information

- BSN : University of Kentucky 1990
- MSN: Vanderbilt University 1997
- Designation: APRN-NA
- Original date of KY licensure: May 1990
- Occurred five (5) years into his Anesthesia Career


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Original Complaint

- Acute care hospital, Louisville KY
- Surgical Department Supervisor and Pharmacy
- Admitted to diversion
- Self report to the KARE Program
- Anesthesia Physicians VERY Supportive


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His Story

- First used drugs/alcohol at age of fourteen (14)
- Employer suspected diversion
- Withdrew excessive amounts of anesthesia drugs
- Abnormal behavior


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His Story (cont'd)

- Working while impaired
- Drugs of choice: Fentanyl, Versed, and Cocaine
- Attended inpatient treatment center in MS for three (3) months


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His Story (cont'd)

- Family:
 - Mother was also a nurse disciplined by KBN, completed limitation/probation, and died one (1) month after that time due to an overdose
 - Twin brother is in recovery
- Treatment roommate: Jack


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Resolution of the Case

- KARE Admission Date: July 12, 2002
- Initial relapse occurred two (2) years into the KARE program
- Two (2) weeks prior to his completion of the KARE program, he relapsed again and self reported to the Board. That initial Agreement was closed and another Agreement was entered for an additional five (5) years


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Resolution of the Case (cont'd)

- Three (3) years into the second Agreement he relapsed again
- Terminated from the KARE Program
- Total monitoring 8 years
- Attempting to reinstate at this time


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KARE Case Study # 2

- Name: Maurine
- Title: APRN, Mental Health (MH), Specialty Chemical Dependency
- Age at the time of the complaint: forty (40)


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Original Complaint

- Neonatal ICU in a hospital
- Nine (9) years into her career
- Suspected diversion and admitted guilt
- Withdrew excessive amounts of anesthesia drugs


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Original Complaint (cont'd)

- Impaired on duty
- Referred to the hospital's Employee Assistance Program
- Evaluator explained the mandatory reporting law and suggested she self report which she did


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Her Story

- First used drugs/alcohol at age: sixteen (16)
- Drugs of choice: Marijuana, street drugs, Fentanyl, and alcohol (ETOH),
- Used drugs/alcohol for twenty-five (25) years


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Her Story (cont'd)

- Family:
 - Two (2) sons, both addicts and dealers who supplied her with drugs
 - One (1) son imprisoned
- Usage: consumed six (6) pack beer, smoked two (2) - three (3) joints, popped pills


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Resolution of the Case

- Intensive Out Patient Therapy
- KARE admission date: November 13, 2002
- Successfully completed: November 13, 2007


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Resolution of the Case (cont'd)

- Obtained her BSN & MSN while in KARE
- Currently employed as a counselor with the same facility where she received treatment
- Years of sobriety: Nine (9) years

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Compare and Contrast

<ul style="list-style-type: none">• Discipline<ul style="list-style-type: none">- Protects public- Maintains integrity of the profession- Disciplinary action on license- Not confidential	<ul style="list-style-type: none">• KARE<ul style="list-style-type: none">- Protects public- Maintains integrity of the profession- No disciplinary action on license if successful- Confidential to an extent
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Compare and Contrast (cont'd)

<ul style="list-style-type: none">• Discipline<ul style="list-style-type: none">- Punitive based- Potential shorter time frame- Additional continuing education hours- Civil penalty- Agreed Order/Decision	<ul style="list-style-type: none">• KARE<ul style="list-style-type: none">- Disease based- Minimum five (5) years of monitoring- No civil penalty- Contract Agreement- Always includes sponsor, increased attendance at 12 step meetings
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Comparison Statistics Summary

• Discipline	• KARE
- Sample Size: 284	- Sample Size: 245
- Completed: 23	- Completed: 145
- Success Rate: 8%	- Success Rate: 60%
- Recidivism Rate: 10%	- Recidivism: 10%


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Other KY Professional Alternative Programs

• Attorneys	• Law enforcement
• Physicians	• Teachers
• Physician Assistants	• Physical Therapists
• Pharmacists	• Veterinarians
• Dentists	• Social Workers


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National Counsel State Boards of Nursing

- 41 nurse monitoring programs
- Reports Alternative to Discipline Programs have a 75% success rate compared to 30% success of non-alternative programs

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