### State of Louisiana



OFFICE OF THE GOVERNOR DRUG POLICY

Kristy Miller Director

**Dr. Shayla Polk**Prevention Systems Manager

#### DRUG POLICY BOARD February 10, 2023; 10:00 AM - 12:00 PM

#### **MINUTES**

#### **Call to Order**

Kristy Miller, Director of the Governor's Office of Drug Policy and Chair of the Drug Policy Board, called the meeting to order at 10:05AM

#### **Welcome and Introductions**

Kristy did a roll call for Voting and Of-Counsel members seated around the table. She then asked Voting and Of-Counsel members to introduce themselves. Then, stakeholders and members of the public were introduced. After introductions, she announced that there were 18 members present so quorum was achieved. A list of all members and stakeholders who attended the meeting is included at the end of this document.

#### **Old Business**

Review and approve minutes from previous meeting

Kristy asked everyone to refer to the minutes that were emailed prior to the meeting. While doing that, she reminded everyone that a copy of the minutes were in their packets. After a moment of silence to review, Kristy asked if there were any edits or amendments to be made. Hearing none, DA Warren Montgomery representing the Louisiana District Attorneys Association, made a motion to approve. Mr. Ed Carlson, with a private organization involved in substance abuse prevention, seconded the motion. Vote by voice was made. All who were present agreed with the motion. None disagreed. None abstained.

#### **New Business**

 Presentations with open discussions on Hemp-Derived THC Variant and Concerns About High-Potency Products in Our Communities

The Director of Drug Policy, Kristy Miller shared that she and Dr. Shayla Polk, the Prevention Systems Manager study emerging issues that are drug-related and monitor what is going on in that field as per their job and that there had been some issues of federally legal hemp-derived products being infused into products sold across the country without proper regulations and containing high potency levels of THC beyond the legal limit. She further shared that the Drug Policy Board, along with its advisory committee, had been working on drug briefs as a part of educating individuals on the subject matter. She then stated that, Judge Scott Schlegel expressed concerns about the issue of these products being sold across Louisiana and requested that it be put on the agenda. She further stated that the Board would hear from Dr. Shayla Polk and a forensic toxicologist to provide factual information about hemp and its legislation. Representatives from state agencies were also present to answer questions and that the floor would be opened for public comment. She also shared that DA Warren Montgomery had a resolution to offer and that all Board members were invited to provide brief opening statements on the topic.

# A. Opening statements from Board Member expressing concerns – Judge Scott Schlegel, District Court Judge Gov. Appointee, 24th Judicial District Court

Judge Scott Schlegel shared that Kristy had summarized what his concerns. He emphasized the issue of hempderived THC variants were being sold on the market without proper regulations and potentially impacting communities. He did express that some people were expressing concerns about these products being approved by the state agency responsible for serving as gatekeeper and wanted to hear more about the review process, too.

# B. Setting the Stage: What, When, and Why of Hemp – Dr. Shayla Polk, Prevention Systems Manager, Office of Drug Policy

Dr Shayla Polk, the Prevention Systems Manager with the Office of Drug Policy gave a presentation about hemp during the meeting. She explained that while hemp is included under the "cannabis sativa" umbrella, it differs from marijuana. She furthered shared how Cannabis sativa is typically thought of as marijuana, but if one were to analyze the rest of the definition, they would see how hemp differs from marijuana. Hemp is not just cannabis sativa, but also any part of the plant with no more than a 0.3% concentration of THC, which is the major psychoactive component of marijuana. Despite their closely entangled definitions, hemp and marijuana are not the same thing, as they contain different chemical compound concentrations. She explained how the federal government differentiated between the two plants due to efforts to establish hemp as a mainstream agricultural commodity that could support industrial uses for hemp. This led to the emergence of two markets for hemp: one focused on non-consumable hemp for industrial uses and the other focused on consumable or topical products. While the former includes textiles, fabrics, and construction materials, the latter deals with the ability to process and synthesize hemp to create consumable or topical products, such as Delta-8 THC, which must be manufactured from hemp-derived cannabidiol. However, the heating and synthesizing of the hemp-derived CBD unintentionally (or often intentionally) increases the potency levels of THC, which is a cause for concern. -Slides are available upon request.

## C. The Science of Hemp and Hemp-Derived Variants Such as Delta-8 THC - Joseph O. Jones, System Director, North LA Criminalistics Laboratory

Joseph shared that Delta 8 THC was one of the over 100 cannabinoids found in the cannabis plant. He further stated that Delta 8 THC wasn't present in large amounts in most cannabis, so manufacturers had to use extraction techniques and chemistry to produce more Delta 8 THC to be infused into products. There were a few ways to make Delta 8 THC, but the most common method Joey had read about was manufacturers refining hemp to extract CBD isolate to produce Delta 8 THC. He also shared that, Delta-8 THC had a similar structure to Delta-9 THC and that data on pure/isolated Delta-8 was very limited but that most people who actively used Delta-9-THC would report the feeling of delta-8 as "less high."

Joey also shared that although little research was done on Delta-10's mechanism of action in the body, it was assumed that it interacted with the endocannabinoid system similarly to other THC compounds. Delta-10 THC was thought to interact with CB1 receptors in the brain and nervous system, producing varying levels of psychotropic effects at high concentrations. Other information shared included Cannabis was found to contain over 460 chemicals, with more than 60 of them grouped as cannabinoids. The major psychoactive component was delta-9-tetrahydrocannabinol (THC), while other cannabinoids like delta-8-tetrahydrocannabinol (Δ8THC), cannabinol (CBN), cannabidol (CBD), cannabicyclol (CBL), cannabichromene (CBC), and cannabigerol (CBG) were present in smaller quantities and had no significant psychotropic effects compared to THC. However, they could impact the overall effect of the product. CBN was also investigated for its appetite stimulant, sleep aid, pain relief, and immune system effects. He also shared that, Delta 8-THC has euphoric effects and the potential for causing driving impairment and that it is more similar in effect to Delta 9-THC than CBD and has been a constant challenge for Toxicology & Drug Chemist. -Slides are available upon request.

# D. Overview of Louisiana's Hemp Program Pertaining to Consumable Hemp Products - Dr. Shayla Polk

Dr. Shayla Polk gave a presentation providing an overview of Louisiana's hemp program related to consumable hemp products. In 2018, the farm bill directed the U.S. Department of Agriculture to oversee the cultivation, handling, processing, and transporting of hemp. States were given the option to adopt the federal program or create their own plans for approval by the USDA. Louisiana chose to create its own state plan resulting in Act 164 of the 2019 regular session, which authorized the commercial cultivation and processing of hemp. Part 6 of the Act was titled "industrial hemp cannabidiol products." The Louisiana Department of Agriculture and Forestry had most of the responsibility for licensing and testing the plants for THC concentration, while the Louisiana Department of Health was in charge of registering and approving labels for already processed consumable hemp products. The Office of Alcohol and Tobacco Control issued permits to retailers who wanted to sell hemp-derived

CBD products. In 2020, Act 344 was passed with some changes to LDH's and ATC's roles. The addition of age restriction for purchase was made, only those 18 or older could purchase these products. In 2021, Act 336 brought some major changes, updated the name of Part 6 to "consumable hemp products," added a definition for consumable hemp products, removed the prohibition against food or beverage products containing CBD, and prohibited products containing cannabinoids that are not naturally occurring. The THC concentration limit remained the same, but the total THC concentration limit for all variants was capped at 1%. In 2022, Act 498 was passed, which defined and provided provisions for "adult use consumable hemp products" containing more than 0.5 milligrams of total THC per package.b -Slides are available upon request.

E. Louisiana Department of Health's Role in the LA State Hemp Plan-Stephen Russo Stephen Russo, who is the Executive Council for the Department of Health and Director of legal, Audit and Regulatory Compliance, reported on the history and processes of the department. He highlighted that the department began rulemaking under the Administrative Procedures Act after the 2019 legislation, with Act 498 providing the department the power to use emergency rulemaking, which was utilized for the emergency rule effective from August 1st. The department also put out a notice of intent that became finalized in December 2022, and a second emergency rule effective from January 2023. Russo also mentioned that the department has a scannable UPC feature that was soft-rolled out on January 1st, 2023, and will be fully functional by June 30th, 2023/July 1, 2023. He discussed the department's authority to permit, inspect, register label artwork and information, and charge fees and permits for label registration. He also talked about the sliding scale of fees for processors and the requirement to list other products for label registration. Russo explained that prior to the recent emergency rule, if an application and certificate of analysis were submitted, the label contained all of the requirements that needed to be on that label, and the department would register that product and share the list with ATC. He highlighted that 16 consumable hemp manufacturers are in Louisiana, with 167 firms registered labels and approximately 2,500 labels registered each year. Russo also pointed out that the retail sales of consumable hemp products are regulated by ATC, and the growing of the products is regulated by agricultural and forestry. He emphasized that all consumable hemp products sold in Louisiana must be registered with the department, and the potency of Delta nine must be 0.3% and total THC must be 1%.

## F. Louisiana Office of Alcohol and Tobacco Control's Role in the LA State Hemp Plan - Commissioner Ernest Legier, ATC

Ernest Legier, the ATC Commissioner of Louisiana, spoke about their efforts to regulate the sale of CBD products and prevent illegal THC from getting into the hands of minors. The agency has been authorized to hire an additional 10 agents, but they are doing their best with limited resources. The agency has taken a very aggressive approach to regulation, and has fined, suspended, revoked permits, and seized products from almost 2,500 CBD retailers. They have faced challenges due to the lack of knowledge and understanding by some businesses, and bad actors who are intentionally breaking the law for profit. They have issued an advisory and provided training to their agents to help regulate the industry and bring consistency throughout the state.

#### **Public Comments –** following presentations

*Dr. Jim Hussey*, who is the Medical Director of the Office of Behavioral Health and Chairman of the HOPE Council, expressed his concerns about the neurological vulnerability of young people aged 13 to 23-24 towards substances like D8. He emphasized that the use of such substances could increase the likelihood of developing psychosis by 5 to 7 times. He was worried about the academic and vocational trajectory of young people who became psychotic due to the use of legalized D8 products. Hussey urged lawmakers to take this issue seriously and not lose sight of the impact on young people, who could be derailed from their life trajectory by these substances. He acknowledged that D8 may help with pain but urged lawmakers to consider the other effects of the substance.

Austin Matthews, a member of the SEW Analyst Team, shared his concerns about the lack of regulation on the consumption of synthetic substances, particularly in the area of testing. He recounted an incident from about seven years prior, in the early 2010s, when gas stations were selling synthetic marijuana and bath salts that people were smoking like incense. Matthews, who was working at a Lane Correctional Center at the time, remembered a young man who had screamed for about 12 days straight after purchasing something over-the-counter that he thought would help his other addictive issues. Matthews expressed that those in care settings were very scared at that moment. He believed that the lack of regulation on consumption of these substances

was much more concerning than with just marijuana. He emphasized that this trend of unregulated synthetic substances keeps happening repeatedly, and suggested that lawmakers consider looking back at past approaches to address this issue.

Norma Dubois, from the Jefferson Parish DA's office, expressed her main concern about Delta 8 not being a controlled dangerous substance under their statute. She wondered what would happen if someone under the influence of Delta 8, which has the same effects as Delta 9, drove a vehicle and killed someone. Dubois questioned how she would prosecute such a case. She also mentioned that the Governor's DWI Task Force had been revising the DWI statute to remove all the subsections and define impairment intoxication by any substance that is considered a drug. Dubois believed that they needed to push for such a change in the state because it was becoming harder to prosecute cases involving substances that did not fall under the subsections. Although Joey, who had spoken earlier, had not seen Delta 8 without Delta 9, he had warned that they would start seeing it. Dubois emphasized that D8 had the same impairing effect, and they needed to figure out what to do with it.

Dan Schneider, The Pharmacist and Founder of Tunnel of Hope Foundation, shared his thoughts on the potential tax revenue generated by CBD and related products, and questioned how much of it would go towards education and public service announcements about the concerns raised by doctors. He also suggested that if it is difficult to control the distribution of these products, efforts should be made to prevent children from accessing them.

#### Presentation and Vote: Resolution to Regulate the Processing and Sale of Intoxicating Hemp Extracts Such as Delta-8 THC- Louisiana District Attorneys Association, governor appointee Warren Montgomery

Kristy Miller, recognized the need to set time limits for board members out of respect for their schedules as well as for members of the public because everyone would be given an opportunity to make public comments in regard to the resolution. Kristy suggested that the meeting be extended by 10-15 minutes to accommodate the additional item of business. Kristy requested for anyone to offer a motion to extend the meeting time. Senator Gerald Boudreaux made a motion to extend the meeting by 15 minutes, seconded by DA Montgomery, the motion was approved with no opposition or abstentions. Kristy also shared that the Drug Policy Board is not a policy-making body but rather an organization that can recommend policies. She requested that comments made are limited to the purpose and responsibilities of the Board. The public is invited to provide comments either at the podium or at their seats.

Louisiana District Attorneys Association, governor appointee Warren Montgomery thanked all the people who made excellent presentations and particularly thanked the members of the public who spoke about the important issue of schizophrenia. He mentioned that consuming hemp is effectively consuming recreational marijuana and that it is impossible to enforce existing regulations effectively. He stated that there are observable negative impacts in society, such as an increase in people driving while intoxicated and children distributing these products at school. He urged the board to favorably consider and support the resolution to regulate the processing and sale of intoxicating hemp effects, which would ask the legislature to revisit the issue of public safety for children.

**Public Comments** on Resolution *to Regulate the Processing and Sale of Intoxicating Hemp* Extracts Such as Delta-8 THC

Joe Kanter mentioned that they were only directing service of the resolution, if passed, to the governor, but he suggested that they should also direct service to the legislative leadership as well.

Ernest Legier agreed with everything in the document but had concerns about two points. Firstly, he did not necessarily believe that derived consumable CBD is recreational marijuana, which was an absolute statement in the document. Secondly, he disagreed with the absolute statement regarding the challenge of regulatory effort and did not think it gave a true appreciation for the work that the men and women of the agencies were doing to regulate the industry and protect public safety. He suggested adding some qualifying language to address these concerns.

Gerald Boudreaux agreed with the Commissioner's point and suggested adding an amendment to acknowledge that the work to regulate the industry is a work in progress. He suggested adding a line to the document to reiterate this point and work together to make efforts towards it.

During the meeting, a motion was made by The Louisiana Office Alcohol and Tobacco Control, Commissioner, Ernest Legier to include the amendments offered into the final resolution. The motion was seconded by Mr. Carlson. A voice vote was conducted, where members could choose to vote yes, no, or abstain. A roll call vote was also offered as an option. After the roll call vote, 11 individuals voted in favor of the resolution while 5 individuals chose to abstain. As a result, a majority was achieved and the resolution was passed by the Drug Policy Board.

#### **Other Business**

G. Office of Drug Policy updates

Kristy stated that the Office of Drug Policy had no additional updates.

H. Member agency updates

There were no member agency updates provided prior to the meeting.

#### **Public Comments**

There were no public comments

#### **Upcoming Meetings**

Kristy informed everyone the Drug Policy next meeting was scheduled for April 27th at 10:00 AM.

#### Adjournment

Kristy Miller expressed her gratitude for everyone's commitment and dedication to the discussion. She also announced that the remaining items on the agenda were just reminders and opportunities for updates. She invited anyone with updates to email her. Judge Schlegel made a motion to adjourn the meeting, and Dr. Kanter seconded the motion. Everyone approved and Kristy Miller thanked the attendees for their participation. Meeting was adjourned at 12:20 PM.

#### **MEETING ATTENDEES**

#### **VOTING MEMBERS**

Member Agency	Appointee/Designee	In Attendance
Alcohol industry representative	Mr. Kody Thompson	Yes
Attorney General's Office	Chris Alderman	No
Board of Pharmacy	Joe Fontenot	Yes
District Court Judge	Scott Schlegel	Yes
Federal agency with AOD ed/ treat/prev responsibilities	Vacant	
Governor's Office of Drug Policy	Kristy Miller	Yes
House member, Committee on Health and Welfare	Representative Bob Owen	Yes
Louisiana Commission on Alcohol and Other Drug Abuse	Vacant/Comm does not exist	
Louisiana Commission on Law Enforcement	Linda Gautier	Yes
Louisiana Department of Children and Family Services	Daniel Doyle	Yes
Louisiana Department of Education	Michael Comeaux	Yes
Louisiana Department of Health	Quenetta Womack	Yes
Louisiana Department of Public Safety and Corrections	Blake LeBlanc	Yes
Louisiana District Attorneys Association	Warren Montgomery	Yes
Louisiana Highway Safety Commission	Lisa Freeman	Yes
Louisiana Office of Alcohol & Tobacco Control	Ernest Legier	Yes
Louisiana Public Defenders Board	Remy Starns	No
Louisiana Sheriffs' Association	Shannon Dirmann	No
Louisiana State Police	Rebecca Chiasson	Yes
National Guard	Lt. Colonel Beverly Couto	Yes
Physician	Dr. Joseph Kanter	Yes
Private organization involved in SA prevention	Edward Carlson	Yes
Senate member, Committee on Health and Welfare	Senator Gerald Boudreaux	Yes

#### **OF-COUNSEL MEMBERS**

Member Agency	Appointee/Designee	In Attendance
LA State Board of Medical Examiners	Dr. Vincent Culotta	No
Advisory Council on Heroin and Opioid Prevention and Education	Dr. Jim Hussey	Yes
Drug Enforcement Administration, NOLA Office	Steve Hofer	Yes
Gulf Coast High Intensity Drug Trafficking Area	Greg Lowther	No
Tunnel of Hope Foundation	Dr. Dan Schneider	Yes

#### **STAFF**

Shayla Polk, Governor's Office

#### **GUESTS**

Blain Jennings- Virgin Hemp
Joey Jones – North LA Crime Lab
Shayla Cockerm – LDH
Jules Edwards – JOL
Cathy Childers, LHSC
Lonnie Granier, Odyssey House Louisiana
David McKay - LDH – Legal
Steve Russo - LDH Legal
Steve Hofer – DEA
Lawrence Alexander – DEA
Austin Matthews – LSU SREC
Andrew Burns- LSU SREC

Aimee Moles, LSU
Norma Dubois – Jefferson Parish DA Office
Leslie Freeman – LDH/OBH
Theresa Pham-CDC Foundation
Sam Karlin –The Advocate/ T-P
Murielle Harrison- Gardere Initiative
Leslie Faulkner - DEA



## State of Louisiana

## OFFICE OF THE GOVERNOR DRUG POLICY

Kristy Miller, MPA Director

### Resolution to Regulate the Processing and Sale of Intoxicating Hemp Extracts Such as Delta-8 THC

WHEREAS, in the 2018 Farm Bill, Congress legalized hemp by removing it from the definition of marijuana and descheduling it in the U.S. Controlled Substances Act; and

WHEREAS, this legislation federally legalized the sale of hemp-derived compounds like CBD, but, also essentially authorized synthetically-derived cannabinoid compounds that originate from hemp such as Delta-8 THC, Delta-10 THC, THCA, THCO, and other similar synthetic derivatives; and

WHEREAS, for example, Delta-8 THC, which has become the most popular hemp-originated, synthetically-extracted cannabinoid compound, is nearly identical at the chemical level to Delta-9 THC, the most known compound in marijuana that gets users intoxicated, and with regular use, can lead to addiction and psychosis for those with pre-existing mental health disorders; and

WHEREAS, individual accounts have been reported and the U.S. Food and Drug Administration (FDA) has substantiated that most of these Delta-8 THC products are addictive, intoxicating, and psychoactive, just like Delta-9 THC, and further, the FDA is concerned that Delta-8 THC products likely expose consumers to much higher levels of the substance than are naturally occurring in hemp cannabis raw extracts; and

WHEREAS, the FDA has not approved any drugs containing Delta-8 THC so any Delta-8 THC product claiming to diagnose, cure, mitigate, treat, or prevent diseases is considered an unapproved new drug nor has the FDA determined if these products are effective for the uses manufacturers claim, what an appropriate dose might be, how they could interact with FDA-approved drugs or other products, or whether they have dangerous side effects or other safety concerns, all of which could do inadvertent damage to the therapeutic cannabis market; and

WHEREAS, Delta-8 THC use has officially been recorded to have significant negative impacts, including but not limited to hallucinations, vomiting, tremors, anxiety, dizziness, confusion, and loss of consciousness as evidenced by the 2,362 exposure cases of Delta-8 THC products received by national poison control centers between January 1, 2021 (i.e., date that Delta-8 THC product code was added to database), and February 28, 2022; and

WHEREAS, these products are being marketed with kid-friendly designs and mimicking popular candy brands with fun flavors and sold nationwide in easily accessible locations like gas stations and with no age restrictions, all of which concerned the FDA so deeply, they sent warning letters to companies illegally selling products labeled as containing delta-8 tetrahydrocannabinol (delta-8 THC) in ways that violate the Federal Food, Drug, and Cosmetic Act (FD&C Act); and

WHEREAS, on January 27, 2022, the Drug Policy Board adopted by majority vote of members present a Resolution to Oppose the Legalization of Marijuana for Recreational Use in Louisiana;

NOW THEREFORE, BE IT RESOLVED, the Drug Policy Board has concluded through the preponderance of evidence that many hemp-originated, synthetically-extracted cannabinoid compounds – specifically, but not limited to Delta-8 THC, - are chemically analogous to marijuana and are being used for the same practical purposes as Delta-9 THC marijuana as an intoxicant and psychoactive substance; and

BE IT FURTHER RESOLVED, the Drug Policy Board is charged with "identify(ing), examine(ing), select(ing), or develop(ing), recommend(ing), or implement(ing) drug control policies and strategies to more effectively combat illegal drugs and alcohol abuse" under Section A.1. of the La. Revised Statute 49:219.3 which describes the powers of the Drug Policy Board; and

BE IT FURTHER RESOLVED, the Drug Policy Board recognizes the good faith efforts of federal agencies such as the U.S. Department of Agriculture, the U.S. Food and Drug Administration, the U.S. Drug Enforcement Administration as well as the state agencies such as the Louisiana Department of Health and the Louisiana Office of Alcohol and Tobacco Control, all of which continue to put the health and safety of the public at the forefront of their regulatory efforts, but are battling the complexity of natural-to-synthetic chemical processes, a new and fast-growing market, and shifting norms around marijuana legalization on a daily basis; and

BE IT FURTHER RESOLVED, the Drug Policy Board calls on Congress to close the loopholes in the federal farm bill this year by clarifying the hemp legalization provisions and banning the manufacturing and sale of intoxicating and psychoactive hemp-originated, synthetically-produced compounds because the federal farm bill must be authorized before year end 2023 so Congressional members are currently working on revisions to the 2018 law; and

BE IT FURTHER RESOLVED, the Drug Policy Board calls on the Louisiana Legislature to close the loopholes in the Louisiana Industrial Hemp Law by taking appropriate actions such as repealing the Adult Consumable Hemp Products statute or otherwise revising the Louisiana Industrial Hemp Law to ban the manufacturing and sale of intoxicating and psychoactive hemporiginated, synthetically-produced compounds; and

BE IT FURTHER RESOLVED, the Drug Policy Board does not make these recommendations lightly as members recognize that businesses have invested in materials and inventory to process as well as inventory to sell these products, but the Drug Policy Board is also charged with "undertaking every responsible effort, explore every opportunity, invite every useful contribution, and expend every available resource, to eliminate the abuse of drugs and alcohol and the damage to people and institutions that results from such abuse" and, the Drug Policy Board recognizes that these businesses knowingly and willingly chose to enter into a marketplace of regulated food and drugs; and

BE IT FURTHER RESOLVED, the Drug Policy Board would not be the first entity to recommend state-level restrictions on synthetically-extracted hemp derivatives – particularly Delta-8 THC – as it was able to confirm that eight (8) states have full bans on these substances and another handful have limitations pending which means they passed their legislatures and are awaiting dates of enactment and, further, confirmed a number of states had popular, but ultimately failed attempts to pass restrictions through legislation; and

BE IT FURTHER RESOLVED, the Drug Policy Board urges the Governor of the State of Louisiana to supports its recommendation that the Louisiana Legislature take appropriate actions to address the proliferation of intoxicating and psychoactive hemp-originated, synthetically-produced compounds that are easily accessible to youth in communities across the state, and, also, urges the Governor to take any steps necessary to advance support of legislative restrictions; and

BE IT FURTHER RESOLVED, the Drug Policy Board urges its Chair to communicate a copy of this resolution upon its approval to the Governor of the State of Louisiana, members of the Louisiana State Legislature, and members and stakeholders of the Drug Policy Board.

> I do hereby affirm that this Resolution was approved by a majority vote of the board members present during a regular business meeting of the Drug Policy Board held on the 10<sup>th</sup> day of February in the year 2023.

> > Chair, Drug Policy Board

Trusts Il Milla

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