

Mental Health Act, B.E. 2551 (2008)

Translation

BHUMIBOL ADULYADEJ, REX.

Given on the 13th Day of February B.E. 2551;

Being the 63rd Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have a law on mental health;

This Act contains certain provisions in relation to the restriction of right and liberty of person, in respect of which Section 29 in conjunction with Section 32 and Section 33 of the Constitution of the Kingdom of Thailand so permit by virtue of law;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly, as follows:

Section 1

This Act is called the "Mental Health Act, B.E. 2551 (2008)".

Section 2

This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3

In this Act,

"Mental disorder" means any symptom of mental disorder exposed through behavior, mood, thought, memory, intelligence, neuro-perception or perception of time, place or person, including any symptom of mental disorder resulting from alcoholic drinks or other psychotropic substances;

"Physician" means a medical practitioner under the law on medical profession;

"Psychiatrist" means a physician having certificate or written approval as a skillful medical practitioner in psychiatry or child and adolescent psychiatry;

"Nurse" means a person practicing in nursing under the law on nursing and midwifery profession;

"Patient" means a person with mental disorder who should have treatment;

"Patient in criminal case" means a patient under inquiry or preliminary examination or on trial in criminal case who has to receive diagnosis or treatment by the order of the inquiry official or the Court as well as a patient who has to receive treatment by the order of the Court after rendering judgment in a criminal case;

"Threatening condition" means any exposed behavior of a person with mental disorder which may cause serious harm to live, body or property of his own or that of the other;

"Requirement for treatment" means a condition that a patient is incapable to give consent to his treatment while he has to receive treatment without delay so as to protect or alleviate his mental disorder or to prevent harm which may be happened to the patient or the other;

"Treatment" includes medical treatment and social care for a patient;

"Infirmarium" means a mental health infirmarium as notified by the Minister under this Act;

"Detention" means restriction of right and liberty of person by virtue of law through keeping in custody, detention, hold, restraint, lockup, confinement, incarceration and imprisonment;

"Board" means the National Mental Health Board;

"Infirmarium Board" means a mental health board of an infirmarium;

"Competent official" means a person having qualifications required by the regulation as prescribed by the Board who is appointed by the Minister for the execution of this Act;

“Director-General” means the Director-General of the Department of Mental Health;
“Minister” means the Minister having charge and control of the execution of this Act.

Section 4

The Minister of Public Health shall have charge and control of the execution of this Act and shall have the power to appoint the competent officials and to issue the regulations and notifications for the execution of this Act.

Such regulations and notifications shall come into force upon their publication in the Government Gazette.

CHAPTER I The Boards

Part 1

The National Mental Health Board

Section 5

There shall be a National Mental Health Board consisting of:

- (1) the Prime Minister or the Deputy Prime Minister entrusted by the Prime Minister, as Chairperson;
- (2) the Minister of Public Health, as Vice Chairperson;
- (3) the Permanent Secretary of the Ministry of Social Development and Human Security, the Permanent Secretary of the Ministry of Interior, the Permanent Secretary of the Ministry of Justice, the Permanent Secretary of the Ministry of Labor, the Permanent Secretary of the Ministry of Education, the Permanent Secretary of the Ministry of Public Health, the Attorney-General, the Commissioner-General of the Royal Thai Police and the Secretary-General of the National Human Rights Commission, as members;
- (4) representatives of the non-governmental organizations which are juristic persons having objectives in providing protection and care for person with mental disorder as elected among themselves to be four in number, as members;
- (5) six qualified persons appointed by the Minister from experts having apparent experience and works in psychiatry, clinical psychology, medical social work, psychiatric mental health nursing, occupational therapy and law; one from each field, as members.

The Director-General shall be member and secretary and not more than two civil services of the Department of Mental Health appointed by the Director-General shall be assistant secretaries.

The selection and appointment of the members under (4) and (5) shall be in accordance with the regulations as notified by the Minister.

Section 6

A member under Section 5 (4) and (5) shall have qualifications and not being under the prohibitions, as follows:

- (1) being of Thai nationality;
- (2) not being under twenty years of age;
- (3) not being an incompetent or quasi-incompetent;
- (4) not having been sentenced by a final judgment of the Court to a term of imprisonment, except for an offence committed through negligence or a petty offense;
- (5) not being a person holding political position, a member of local assembly or local administrator, a director of or a person holding any position responsible for the administration of a political party or an advisor or official of a political party.

Section 7

A member under Section 5 (4) and (5) holds office for a term of three years, but not more than two consecutive terms.

In the case where the member under paragraph one vacates office at the expiration of the term of office, the appointment of the new member shall be made within ninety days. While the new member has not been appointed, the member who vacates office shall remain in office to continue his duties until the newly member have been appointed.

In the case where the member under paragraph one vacates office before the expiration of the term of office, the new member shall be appointed to replace him within ninety days as from the date the office becomes vacant and such person shall remain in office for the unexpired term of office of the member he replaces.

In the case where the remaining term of office of the member under paragraph one who vacates office before the expiration of the term of office is less than ninety days, the appointment of the new member to replace the vacancy may not be made. In this case, the Board shall consist of the remaining members.

Section 8

In addition to vacating office at the end of the term of office, a member under Section 5 (4) and (5) vacates office upon:

- (1) death;
- (2) resignation;
- (3) being removed from office by the resolution of the Board by the vote of not less than two-thirds of the existing number of the members due to negligent in the discharge of duty, disgrace behavior or incapability;
- (4) being disqualified or being under any of the prohibitions under Section 6.

Section 9

At a meeting of the Board, the presence of not less than one-half of the total number of the members shall constitute a quorum.

The Chairperson shall preside over at the meeting. In the case where the Chairperson is not present at the meeting or is unable to perform his duty, the Vice Chairperson shall preside over at the meeting. If the Vice Chairperson is not present at the meeting or is unable to perform his duty, the members shall elect one among themselves to preside over at the meeting.

The decision shall be made by the majority of votes. In casting vote, each member shall have one vote. In case of an equality of votes, the person who presides over at the meeting shall cast additional vote as a casting vote.

Section 10

The Board shall have the powers and duties as follows:

- (1) to lay down policy and measure in relation to the protection of rights of a person with mental disorder and to the access of mental health service as well as social cohabitation;
- (2) to prescribe rules and procedure for the provision of consultation and advice and for the coordinated conduct with the government and private agencies in relation to the protection of rights of a person with mental disorder and the access of mental health services as well as social cohabitation;
- (3) to inspect and monitor the performance of the infirmary board;
- (4) to prescribe the form of consent for treatment under Section 21;
- (5) to notify the assistance and welfare agency under Section 40 (2);
- (6) to prescribe rules or notifications for the execution of this Act;
- (7) to carry out any duty as prescribed by this Act or by other laws or as entrusted by the Council of Ministers.

Section 11

The Board shall have the power to appoint the advisor or sub-committee for the execution of any matter as may be entrusted by the Board.

The provisions of Section 6, Section 8 and Section 9 shall apply to the advisor and sub-committee *mutatis mutandis*.

Part 2 Infirmery Board

Section 12

In each infirmery, there shall be an Infirmery Board as appointed by the Director-General, consisting of a psychiatrist attached to the infirmery as Chairperson and a physician, psychiatric nurse, lawyer and clinical psychologist or medical social worker as members.

Section 13

The Infirmery Board shall have the powers and duties as follows:

- (1) to conduct diagnosis and assessment and to have an order under Section 29;
- (2) to consider, and give opinion on, treatment and result thereof under this Act.

Section 14

The provisions of Section 6, Section 7, Section 8, Section 9 and Section 11 shall apply to Infirmery Board *mutatis mutandis*.

CHAPTER II Rights of Patient

Section 15

A patient shall enjoy the rights as follows:

- (1) to standard medical treatment with due regard to human dignity;
- (2) to confidentiality of illness and treatment, except where the disclosure thereof is prescribed by law;
- (3) to protection from the research under Section 20;
- (4) to impartial and equal protection under the health and social security system and other systems provided by the State.

Section 16

No person shall disclose health information of patient in a manner that may cause damage to patient, provided that:

- (1) it may be harmful to the patient or other persons;
- (2) it is necessary for public safety;
- (3) the disclosure thereof is prescribed by law.

Section 17

Treatment by means of physical restraint, confinement or seclusion of a patient shall not be given, provided that it is necessary for the protection of the patient, other persons or properties of other persons and it is given under close monitoring of the person giving such treatment in accordance with his professional standard.

Section 18

Electroconvulsive treatment, treatment to be given to brain or nervous system or any other treatment which may result in irreversible physical conditions shall be given in the following cases:

- (1) the patient gives written consent for treatment after he has known of reasons and necessities, risks from severely harmful complications or irreversible physical conditions and benefits of treatment;
- (2) there is urgent and critical necessity for the patient to have treatment, otherwise his life would be at risk. In this case, the unanimous approval of the infirmary board is required.

The provisions of Section 21 paragraph three shall apply to the giving of consent under (1) *mutatis mutandis*.

Section 19

A patient shall not be sterilized, except where there is the case under Section 18 (1).

Section 20

A research in relation to patient shall be made upon written consent of the patient and upon approval of a committee responsible for human research ethics of concerned agency. The provisions of Section 21 paragraph three shall apply to the giving of consent *mutatis mutandis*.

The patient may at any time withdraw the consent given under paragraph one.

CHAPTER III Mental Health Treatment

Part 1 Patient

Section 21

Treatment may be given when reasons, necessities, details and benefits thereof have been explained to patient and consent for treatment has been given by the patient, except for the patient under Section 22.

If a patient has to be admitted in a State hospital or infirmary, the consent under paragraph one shall be made in writing and signed by the patient.

In the case where the patient is less than eighteen years of age or incapable to have decision in giving consent for treatment, his spouse, ancestor, descendant, protector, curator, guardian or a person who takes care of that person, as the case may be, shall give consent under paragraph two on his behalf.

The written consent under paragraph two and paragraph three shall be in accordance with the form as prescribed by the Board and published in the Government Gazette.

Section 22

A person with any of the following mental disorders shall have to receive treatment:

- (1) being in threatening condition;
- (2) having requirement for treatment.

Section 23

Whoever finds a person having behavior which is reasonable to believe that he is a person with mental disorders under Section 22 shall notify the competent official or the administrative or police official without delay.

Section 24

The competent official or the administrative or police official who has been notified under Section 23 or finds a person having behavior which is reasonable to believe that he is a person with mental disorders under Section 22 shall without delay take that person, with or without the person who looks after that person, to nearby State hospital or infirmary for preliminary diagnosis and assessment under Section 27.

No physical restraint shall be made in taking of the person under paragraph one to State hospital or infirmary, provided that it is necessary for the protection of that person, other persons or properties of other persons

Section 25

The person supervising the place for detention or welfare agency or the probation officer who finds the person under his responsibility having behavior which is reasonable to believe that he is a person with mental disorders under Section 22 shall transfer that person to nearby State hospital or infirmary for preliminary diagnosis and assessment under Section 27.

The transfer of the person under paragraph one shall be in accordance with the regulations as prescribed by the Board.

Section 26

In an emergency situation, the competent official or administrative or police official who has been notified under Section 23 or finds a person having behavior which is reasonable to believe that he is a person with mental disorder in threatening condition and that may give rise to imminent danger shall have the power to take that person or enter into any place so as to take that person to nearby State hospital or infirmary for preliminary diagnosis and assessment under Section 27.

If that person resists, escapes or attempts to escape, the administrative or police official shall have the power to take reasonable and necessary measures with a view to take that person to State hospital or infirmary under paragraph one.

The taking of the person under paragraph one shall be in accordance with the regulations as prescribed by the Board.

Section 27

At least one physician and nurse attached to State hospital or infirmary shall complete preliminary diagnosis and assessment for the person taken or transferred under Section 24, Section 25 or Section 26 without delay, but not more than forty-eight hours since that person arrives at that State hospital or infirmary.

In preliminary diagnosis and assessment under paragraph one, the physician shall have the power to conduct diagnosis and treatment as necessary with regard to the seriousness of the symptoms for the benefits of the health of that person.

If the result of diagnosis under paragraph one indicates that that person requires elaborated diagnosis and assessment of the Infirmary Board, the competent official shall transfer that person, together with the report on preliminary diagnosis and assessment, to have elaborated diagnosis and assessment under Section 29.

The rules and procedure for reporting of preliminary diagnosis and assessment under paragraph three shall be in accordance with the regulations as prescribed by the Board.

Section 28

If the physician found by diagnosis that any person having mental disorders under Section 22, he shall transfer that person, together with the report on preliminary diagnosis and assessment, to have elaborated diagnosis and assessment under Section 29. In this case, the provisions of Section 27 paragraph two and paragraph four shall apply *mutatis mutandis*.

Section 29

When the infirmary admits the person transferred by the competent official under Section 27 paragraph three or by the physician under Section 28, as the case may be, the Infirmary Board shall conduct elaborated diagnosis and assessment to that person within thirty days as from the date of admittance of that person. In the case where the Infirmary Board is of opinion that that person having mental disorders under Section 22, the Infirmary Board shall have any of the following orders:

- (1) admitting that person to have treatment at the infirmary;
- (2) ordering that person to have treatment at any other places other than the infirmary if he is not in threatening condition. In this case, necessary requirements relating

to treatment to be complied with by that person or the person who takes care of him may also be imposed.

The provisions of Section 27 paragraph two shall apply to the diagnosis and assessment under paragraph one *mutatis mutandis*.

The rules and procedure for consideration and having the order under paragraph one shall be notified in the Government Gazette by the Board.

Section 30

As for the order admitting the patient to have treatment under Section 29 (1), the Infirmary Board shall prescribe method and period of treatment with regard to the seriousness of mental disorder, but not more than ninety days as from the issuance date of such order. That period may be extended for not more than ninety days as from the issuance date of the first or the next order.

The Infirmary Board shall consider the result of treatment so as to have the order under Section 29 (1) or (2), as the case may be, prior to the expiration of the period for each treatment under paragraph one for not less than fifteen days.

Section 31

During the course of treatment under Section 30 paragraph one, the physician who conducts treatment shall, if he is of opinion that the patient has recovered from mental disorder or has been alleviated and not being in threatening condition, discharge the patient from the infirmary and report the result of treatment and the discharge of the patient to the Infirmary Board without delay. In this case, the physician shall follow-up the result of treatment from time to time.

The rules and procedure for reporting the result of treatment, the discharge of patient and the follow-up of the result of treatment under paragraph one shall be in accordance with the regulations as prescribed by the Board.

Section 32

In the case where the patient or the person who takes care of the patient fails to comply with Section 29 (2) or the treatment is unsatisfied or the circumstance for the issuance of the order under Section 29 (2) has changed, the Infirmary Board may amend or revoke the order or may have an order admitting the patient to have treatment under Section 29 (1).

In the case where the patient under Section 29 (2) is unable to take care of himself and there is no person taking care of him, the provisions of Section 40 (2) shall apply.

Section 33

In the case where the patient escapes from State hospital or infirmary, the competent official shall coordinate with the administrative or police official and his relatives in order to take him back to State hospital or infirmary. In this case, the escaped period shall not be calculated with the period under Section 27, Section 29 or Section 30, as the case may be.

The provisions of Section 46 shall apply to the taking back of the escaped patient under paragraph one *mutatis mutandis*.

Section 34

For the purpose of treatment, the Infirmary Board shall have the power to transfer the patient to have treatment at any other infirmary in accordance with the regulations as prescribed by the Board.

Part 2

Patient in Criminal Case

Section 35

Subject to Section 14 paragraph one of the Criminal Procedure Code, the inquiry official or the Court shall transfer the alleged offender or the accused, together with detailed circumstances of the case, to be diagnosed at the infirmary.

When the infirmary admits the alleged offender or the accused, the psychiatrist shall diagnose mental disorder of that person and give his opinion for the consideration of the inquiry official or the Court as to whether the alleged offender or the accused is capable to defend the case. In this case, the result of diagnosis and assessment thereto shall be reported to the inquiry official or the Court within forty-five days as from the date of admittance of the alleged offender or the accused. Such period may be extended, but not more than forty-five days.

For the purposes of assessment of the capability in defending the case, the infirmary shall have the power to demand documents relating to the alleged offender or the accused from other infirmaries.

The provisions of Section 27 paragraph two shall apply to the diagnosis of mental disorder under paragraph two *mutatis mutandis*.

In the case where the alleged offender or the accused is under detention and it is necessary to admit that person in the infirmary for the purpose of observation, diagnosis, treatment and assessment of his capability in defending his case, the infirmary may request the inquiry official or the Court to prescribe the method to prevent escape or harm.

The rules and procedure for reporting the result of diagnosis and assessment of the capability in defending the case under paragraph two shall be in accordance with the regulations as prescribed by the Board.

Section 36

Subject to Section 14 paragraph two of the Criminal Procedure Code, the infirmary shall admit the alleged offender or the accused for detention and treatment without his consent until the alleged offender or the accused has recovered or alleviated and being capable to defend his case, provided that the inquiry official or the Court has otherwise order or otherwise prescribed by law.

The psychiatrist who conducts treatment shall report the result thereof to the inquiry official or the Court within one hundred and eighty days as from the date of admittance of the alleged offender or the accused. In the case where the psychiatrist is of opinion that the alleged offender or the accused is incapable to defend his case, the psychiatrist shall report the result of treatment every one hundred and eighty days, provided that the inquiry official or the Court has otherwise order.

During the course of treatment, if the psychiatrist who conducts treatment is of opinion that the alleged offender or the accused has recovered or alleviated and being capable to defend his case, the psychiatrist shall report the result of treatment to the inquiry official or the Court without delay.

The rules and procedure for reporting the result of treatment under paragraph two and paragraph three shall be in accordance with the regulations as prescribed by the Board.

Section 37

In the case where the Court has ordered the patient in criminal case to be kept in custody or to have treatment at the hospital under Section 48 and Section 49 paragraph two of the Penal Code or Section 246 (1) of the Criminal Procedure Code, the Court shall send a copy of such order together with the patient in criminal case thereto. In this case, the infirmary shall admit that person to be kept in custody and to conduct treatment without his consent.

The psychiatrist who conducts treatment shall report the result of treatment and his opinion to the Court within one hundred and eighty days as from the date of admittance of the patient in criminal case. In the case where the psychiatrist is of opinion that it is necessary to continue treatment for the patient in criminal case, he shall report the result of treatment and his opinion to the Court every one hundred and eighty days, unless otherwise ordered by the Court.

In providing custody or treatment, the infirmary may request the Court to prescribe the method to prevent escape or harm.

The rules and procedure for reporting the result of treatment and giving opinion under paragraph two shall be in accordance with the regulations as prescribed by the Board.

Section 38

During the course of treatment under Section 37, if the psychiatrist who conducts treatment is of opinion that the patient in criminal case has recovered or alleviated and not being in threatening condition, he shall report the result of treatment and his opinion in relation to the discharge of the patient in criminal case from the infirmary to the Court without delay, and shall then report the result of treatment and his given opinion to the Infirmary Board for information.

The rules and procedure for reporting the result of treatment and giving opinion under paragraph one shall be in accordance with the regulations as prescribed by the Board.

Section 39

In the case where the Court imposes the condition under Section 56 paragraph two (4) of the Penal Code, the Court shall send the patient in criminal case together with a copy of judgment to the infirmary.

The psychiatrist who conducts treatment shall report the result of treatment and his opinion to the Court within ninety days as from the date of admittance of the patient in criminal case. In the case where the psychiatrist is of opinion that the patient in criminal case having requirement for treatment, he shall report the result of treatment and his opinion to the Court every one ninety days, unless otherwise ordered by the Court.

The provisions of Section 37 paragraph three and paragraph four and Section 38 shall apply *mutatis mutandis*.

Part 3 Rehabilitation

Section 40

In the case where the Infirmary Board having the order under Section 29 (2), the head of the infirmary shall have the following duties:

- (1) to inform the person who takes care of the patient to take the patient back under his care;
- (2) to inform public and private assistance and welfare agency as notified by the Board if there is no person who takes care of the patient;
- (3) to inform the competent official to follow-up, coordinate with and provide assistance for the rehabilitation of the patient under (1) and the agencies under (2), and then reports to the Infirmary Board for information.

Section 41

If the person under detention who receives treatment during such detention has to be discharged, the head of the place for detention shall have the duty to act in compliance with Section 40.

CHAPTER IV Appeal

Section 42

If the Infirmary Board has the order under Section 29 (1) or (2) or the order extending treatment period under Section 30, the patient or his spouse, ancestor, descendant, protector, curator, guardian or a person who takes care of that person, as the case may be, shall have the right to appeal in writing to the Appeal Committee within thirty days as from the date of receiving of such order.

The appeal under paragraph one shall not stay the execution of the order, provided that the Appeal Committee is of opinion that it is appropriate to stay the execution of that order.

The Appeal Committee shall have a decision on the appeal within thirty days as from the date of receiving of such appeal. The decision of the Appeal Committee shall be final.

The rules and procedure for filing an appeal and the appellate procedure shall be in accordance with the regulations as prescribed by the Board.

Section 43

There shall be an Appeal Committee consisting of:

- (1) the Director-General, as Chairperson;
- (2) representatives of the non-governmental organizations which are juristic persons having objectives in providing protection and care for person with mental disorder as elected among themselves to be three in number, as members;
- (3) five qualified persons appointed by the Minister from experts having apparent experience and works in psychiatry, clinical psychology, medical social work, psychiatric mental health nursing and law; one from each field, as members.

The Deputy Director-General or the head of an infirmary appointed by the Director-General shall be member and secretary.

The selection and appointment of the members under (2) and (3) shall be in accordance with the regulations as notified by the Minister.

Section 44

The Appeal Committee shall have the powers and duties as follows:

- (1) to consider an appeal under Section 42;
- (2) to report its execution to the Board for information at least once a year.

Section 45

The provisions of Section 6, Section 7, Section 8, Section 9 and Section 11 shall apply to the Appeal Committee *mutatis mutandis*.

CHAPTER V **Competent Official**

Section 46. For the execution of this Act, the competent official shall have the powers as follows:

- (1) to enter into a dwelling or any place during sunrise and sunset so as to take a person having behavior which is reasonable to believe that he is a person with mental disorders under Section 22 to have treatment in State hospital or infirmary if there is a reasonable ground to believe that that person is in such dwelling or place and the delay in obtaining of search warrant may give rise to the escape of that person or there is in urgent circumstances since that person is in threatening condition and that may give rise to imminent danger;
- (2) to interrogate any person for obtaining information relating to health, illness, behavior and family and community relationship of the person under (1);
- (3) to have written inquiry or to summon any person to give oral or written statement or to submit any relevant document or evidence for examination or consideration.

In the execution under (1), the competent official may request assistance from the administrative or police. In this case, the competent official shall act in compliance with the regulations as prescribed by the Board.

Section 47

The competent official shall, in the execution of this Act, produce his identification card to the concerned person.

Form of the identification card of the competent official shall be prescribed by the Minister.

Section 48

In the performance of duties of the competent official under Section 46, the concerned person shall render appropriate facilities thereto.

Section 49

In the execution of duties under this Act, the competent official shall be the official under the Penal Code.

CHAPTER VI

Penalties

Section 50

Whoever violates Section 16 shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding twenty thousand Baht or to both.

If the offense under paragraph one is committed through the advertisement or publication in any mass or informative media, the offender shall be liable to imprisonment for a term of not exceeding two years or to a fine of not exceeding forty thousand Baht or to both.

Section 51

Whoever gives false statement to the competent official or administrative or police official under Section 23 with intention to cause injury to any person shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding twenty thousand Baht or to both.

Section 52

Whoever unreasonably fails to comply with the written inquiry of the competent official under Section 46 (3) shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding ten thousand Baht or to both.

Section 53

Whoever fails to render appropriate facilities to the competent official in the execution of his duties under Section 48 shall be liable to imprisonment for a term of not exceeding one month or to a fine of not exceeding ten thousand Baht or to both.

Transitory Provision

Section 54

At the outset, the Board shall consist of the members under Section 5 (1), (2) and (3) and the Director-General and shall perform the duties of the Board under this Act temporarily until the members under Section 5 (4) and (5) take office, but not later than one hundred and twenty days as from the date this Act comes into force.

Countersigned by
General Surayud Chulanont
Prime Minister

Published in the Government Gazette, Vol. 125, Part 36 Kor, dated 20th February B.E. 2551 (2008)

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