

## **LEGAL PERSPECTIVE ON PATIENT RIGHTS IN COMPLEMENTARY AND ALTERNATIVE MEDICINE (CAM)**

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### **ABSTRACT**

The growing popularity of Alternative and Complementary Medicine (CAM) emphasises the need for a deeper understanding of patient rights in this context. This research focuses on legal perspectives on patient rights in CAM, with particular emphasis on information rights, patient consent, safety, privacy issues, and the patient's right to choose or refuse CAM treatment. Qualitative research methods were conducted through literature review, analysis of legal documents, regulations, and CAM policies in various jurisdictions. The results illustrate the complexity of the law in dealing with patient rights issues in CAM practice, raising the need for clearer regulation and stronger protection.

**Keywords:** patient rights, complementary and alternative medicine (CAM), patient consent, regulation of cam practitioners, patient privacy in CAM, professional ethics of cam practitioners.

### **INTRODUCTION**

Health, as one of the basic human needs, plays a central role in living our daily lives. On the road to wellbeing, individuals do not only rely on medical health services, such as doctor's practices. This phenomenon is evident in Indonesian society, where many individuals still choose alternative medicine as a form of belief to achieve healing from various diseases. This diversity of approaches reflects the complexity of people's views on health, illustrating that there are different ways and beliefs that shape their understanding of wellbeing and healing (Darmawan et al., 2022; Khayru & Issalillah, 2022).

Alternative and Complementary Medicine (CAM) has become an increasingly sought-after option by the public at large to achieve health and well-being. Along with its popularity, particularly among patients seeking alternative treatments, attention to patients' rights in the context of CAM has become increasingly important. Compliance with licensure and certification requirements is one way to ensure that CAM practitioners have the necessary knowledge and skills (Pokladnikova & Telec, 2020). In the face of the complexity and diversity of methods covered by CAM, legal issues related to the understanding, protection and enforcement of patients' rights are becoming increasingly complex and demand serious attention.

Legal considerations relating to patients' rights in conventional medicine have long

been the focus of regulation and protection. However, in the context of CAM, legal aspects relating to patient rights have often not been adequately addressed. The patient's right to information is a critical aspect that requires careful understanding and protection from a legal perspective. In CAM practices that often involve unconventional methods, transparency and access to accurate information about treatment procedures and risks are the main foundations of patient information rights (Bulen, 2003). The opacity and diversity of CAM methods raises profound questions about how the law views and regulates patients' information rights in this regard. Health law generally recognizes the right of patients to make informational and autonomous decisions about their care. Therefore, patients have the right to choose CAM as part of their psychological treatment if they consciously and fully understand the choice (Liem & Wardhani, 2020). In a society that is increasingly seeking alternative treatments, there needs to be a solid legal foundation to ensure that patients have an adequate understanding of their treatment options (Khayru et al., 2021). Therefore, the need for an in-depth exploration of legal perspectives on patients' rights in CAM is highly relevant. There is an imperative to identify the extent to which the law accommodates patients' information needs in CAM, how informational practices are implemented in various CAM methods, and whether legal protections are adequate to ensure patients can make informed decisions about their chosen treatment.

Currently, in the practice of Alternative and Complementary Medicine (CAM), there are a number of issues that raise critical questions around the legal roles and responsibilities of CAM practitioners in relation to patient consent for alternative procedures or treatments (Gale & McHale, 2015). Unlike conventional medical practices which often have clear medical consent standards, in CAM, there may not be universal standards regarding the patient consent process. This can create confusion among both CAM practitioners and patients. In addition, some CAM methods may involve risks and benefits that are not well understood by patients (Ezzo et al., 1998). Patient consent should take these aspects into account, but vagueness or uncertainty around risks and benefits may hinder the informed consent process. Information provided by CAM practitioners to patients may not always be consistent or easily understood (Cohen, 2002). This can create uncertainty about what patients are consenting to and the extent to which they truly understand the implications of the procedure or alternative treatment (Doyle, 2001). The legal responsibility of CAM practitioners in disclosing relevant information to patients is a critical aspect that needs to be clarified. Misunderstanding or negligence in disclosing information can potentially create a situation where the patient's consent is not in accordance with the actual circumstances. CAM practitioners may be faced with complex ethical questions related to patient consent, especially in the context of alternative medicine methods that may not be universally recognized (Ernst, 1996). The role of law in guiding and setting the ethical framework is of deep concern. In some jurisdictions, regulation and oversight of CAM practitioners may be limited or less comprehensive than conventional health practices. This creates the issue of the extent to which legal regulations can provide clear guidance regarding the roles and responsibilities of CAM

practitioners with regard to patient consent (Aftabuddin, 2014).

In Alternative and Complementary Medicine (CAM) practices, the use of patient health information can be complex. There are issues around the extent to which CAM practitioners have access to and use this information, and how patient privacy issues are addressed and protected in the context of CAM practice which may differ from conventional medical practice (Caulfield & Feasby, 2001). Challenges also arise in relation to the lack of firmness in legal arrangements regarding patient privacy in CAM. The lack of clear guidelines may lead CAM practitioners to have varying interpretations of patients' boundaries and rights regarding their health information.

The right of patients to choose or refuse CAM treatment raises questions around the extent to which legal regulation accommodates patients' freedom to make decisions regarding their treatment. This involves aspects of the right to personal decision and individual freedom regarding their health care (Stuttaford et al., 2014). Challenges arise when these rights conflict with certain beliefs or practices in CAM. Legal protection of patients' rights to choose or refuse CAM treatment can be ambiguous. Questions arise as to how legal regulation can provide adequate protection, respect patients' decisions, and at the same time, ensure that these decisions are taken in an informed and safe manner.

To achieve an equitable health system, an in-depth understanding of the legal perspectives on patient rights in Alternative and Complementary Medicine (CAM) is imperative. This research aims to make a significant contribution to this understanding and add insights that shape policy, provide direction for health practitioners, and produce adequate regulations to protect patients' rights in the evolving practice of CAM. Based on the background of the problem, the formulation of this research problem is as follows:

1. What is the legal perspective on patient information rights in the context of Alternative and Complementary Medicine (CAM)?
2. What are the legal roles and responsibilities of CAM practitioners in relation to patient consent to undergo procedures or alternative medicine?
3. How is patient safety regulated in the CAM legal framework and to what extent is such protection enforced?
4. How does the law address patient privacy issues related to the use of health information in CAM practices?
5. To what extent do existing legal regulations cover patients' rights to choose or refuse CAM treatment and how are legal protections applied in this context?

This research will lead to a better understanding of the legal dimensions of patient rights in CAM and provide a sharper view of the policies that may be needed to ensure patient protection in the growing CAM practice.

## **METHODS**

This research will use a qualitative approach with a juridical normative legal research

method to investigate the legal perspective on patients' rights in Alternative and Complementary Medicine (CAM). A literature review is conducted to identify existing legal frameworks, related research, and key concepts related to patients' rights in CAM. This will form the theoretical basis of the research. It will also analyze legal, regulatory and policy documents related to CAM in various jurisdictions. This includes patient consent guidelines, privacy regulations, and other legal protections related to patient rights.

Based on this, the qualitative data will be analyzed using a thematic analysis approach. Patterns, trends and key findings relating to legal perspectives on patient rights in CAM were identified. This research method is expected to provide an in-depth understanding of the legal challenges and potential solutions related to patient rights in CAM.

## **RESULTS AND DISCUSSION**

Complementary and Alternative Medicine (CAM) is defined by the National Center of Complementary and Alternative Medicine as a wide range of treatment practices and products that are not part of conventional medicine (Wahner-Roedler et al., 2006).

According to the Minister of Health Regulation, CAM is defined as a form of treatment that does not fall under conventional practice and aims to improve public health. It includes measures such as health promotion, disease prevention, treatment, and rehabilitation. To ensure high quality, safety, and effectiveness, it should be based on biomedical knowledge, although it is not yet fully recognized in conventional medical practice (Halizah et al., 2022). In its implementation, CAM is expected to collaborate synergistically and be integrated with conventional health services. Implementing personnel, including doctors, dentists, and other health professionals, should have specialized education in the CAM domain (Wetzel et al., 1998). The types of treatments that can be properly integrated should be determined by the Minister of Health after an in-depth evaluation and research process by the Directorate General of Health Efforts of the Ministry of Health of the Republic of Indonesia in 2010.

Practically speaking, some people tend to be motivated and confident in alternative health care, viewing it as a viable alternative to chronic diseases. There is also a sense of distrust towards modern medicine, which is seen as a less successful option in curing diseases, and the affordability of treatment in alternative medicine (Verhoef et al., 2008). In the context of alternative medicine, particularly Complementary and Alternative Medicine (CAM) practices, these dynamics provide further insight into people's preferences and perceptions of different healthcare approaches. Health services need to consider a number of key factors involved in order to be widely applicable within the scope of CAM:

- a. **Measurability:** It is important to achieve clarity in performance measurement, which includes identifying and addressing potential deviations. These potential deviations

- may arise from the implementation of CAM or omissions in government oversight.
- b. Rationality: Standards should be reasonable and justifiable, to prevent frustration for CAM practitioners. Any treatment method used must have a rational basis and information disclosure.
  - c. Comprehensibility: Standards should be designed to be easily understood, facilitating implementation by CAM practitioners. This understandability supports the achievement of goals in the context of health care.
  - d. Trustworthiness: Standards should be credible and appropriate to the circumstances of the CAM organization. This trustworthiness plays an important role in supporting the benefits provided to the community.

The importance of applying these four criteria in CAM practice may vary depending on the context and type of CAM service provided. However, in general, the four criteria have great significance in ensuring the success and safety of CAM practices.

The Indonesian positive laws that are directly related to the criminal offense of negligence resulting in serious injury or death committed by traditional healers are the Criminal Code, Law of the Republic of Indonesia No. 36 of 2009 on Health and Law of the Republic of Indonesia No. 8 of 1999 on Consumer Protection. In the context of CAM, particularly traditional medicine, the statement highlights the legal aspects related to patient responsibility and protection. The laws mentioned, such as the Criminal Code, Health Law, and Consumer Protection Law, reflect legislative efforts to regulate the practice of traditional medicine and provide protection to consumers or patients receiving such services. This demonstrates the importance of adherence to legal standards in the delivery of CAM, with a focus on responsibility, safety, and protection of consumer rights.

### **Variety of Complementary and Alternative Medicine (CAM)**

Complementary and Alternative Medicine (CAM), or Alternative and Complementary Medicine in Indonesian, refers to a variety of treatment methods, practices, and health products that do not fall under conventional or modern medical treatment. CAM is used as a complement or alternative to conventional medicine that has been recognized by medical practitioners (Andarwulan, 2021). This approach includes various forms of treatment that focus on balancing and maintaining overall health. Here are some examples of common CAM practices:

- a. Acupuncture: A traditional Chinese technique that involves the insertion of thin needles into specific points on the body to stimulate vital energy or "qi."
- b. Reflexology: Massage or pressure on certain points on the soles of the feet, hands, or face that are believed to be connected to organs and other parts of the body.
- c. Homeopathy: An approach that involves the use of highly diluted natural substances to stimulate the body's healing system.
- d. Chelation: Intravenous infusion of EDTA for arteriosclerotic diseases.
- e. Herbal Therapy: The use of medicinal plants or herbal supplements to treat or prevent

- disease.
- f. Enzyme therapy Peroral administration of proteolytic enzymes for health purposes
  - g. Yoga and Meditation: Holistic physical and mental exercises to improve health and well-being.
  - h. Tai chi: A system of body movements and positions to improve physical and mental health.
  - i. Chiropractic: The understanding that health is related to the balance of the body's structures, especially the spine, and treatment through spinal manipulation.
  - j. Aromatherapy: The use of essential oils from plants to improve physical and mental health.
  - k. Osteopathy Therapy by performing massage, mobilization and manipulation
  - l. Biofeedback: Training that helps individuals control bodily functions such as blood pressure and heart rate.
  - m. Hypnotherapy: The utilization of suggestion in a hypnotic state to treat or change behavior.
  - n. Spiritual healing Channeling the healing energy of a therapist into the body of a patient.

In the realm of alternative and complementary medicine (CAM), it is important to recognize that the effectiveness and safety of various methods can vary significantly. Some methods may not be supported by a strong scientific basis. Therefore, before making a decision to choose or implement a particular CAM method, it is highly recommended to consult with a healthcare professional who has in-depth knowledge and expertise in this field. This is to gain a deeper understanding of the health implications of the method and ensure that its use complies with the safety standards set out in medical practice. Current scientific disciplines and medical guidelines can provide a strong foundation for informed health decision-making.

### **Patient Information Rights in CAM Legal Perspective**

Alternative and Complementary Medicine (CAM) has become an increasingly sought-after alternative in the quest for health and well-being. The growing popularity of CAM raises serious concerns for patient rights involving aspects of patient information rights. In this context, legal perspectives play a crucial role to ensure transparency, patient education, and adequate informed consent.

#### **1. Transparency and Patient Education**

In CAM practices that often involve unconventional methods, patient information rights become more important. The law should support transparency in the delivery of information about procedures, risks, and benefits of specific CAM methods. Patient education is a key focus, with CAM practitioners having an obligation to provide comprehensive information to enable patients to make informed decisions.

#### **2. Informed Consent**



This refers to the consent given by a patient after they have been given full and adequate information about a particular medical procedure or treatment. This consent is made after the patient fully understands the risks, benefits, and alternatives associated with the procedure or treatment. The term is often used in the context of medical consent given by patients before undergoing certain medical procedures. The importance of providing adequate information to patients so that they can make informed decisions about the medical treatment or procedure they are about to undergo. This reflects ethical principles in medical practice that emphasize patient autonomy and their right to have sufficient knowledge before consenting or refusing a medical procedure (Ernst et al., 2004). The patient's right to information in relation to informed consent is a key aspect of CAM practice. CAM practitioners have a legal responsibility to provide accurate and complete information to patients. Informed consent involves a clear understanding of the procedure to be performed, the possible risks, and the expected benefits. The law must ensure that the informed consent process is conducted in a highly ethical manner and respects patient autonomy.

### 3. Right to a Second Opinion

In some cases, the law may grant patients the right to seek a second opinion from another health professional. This creates an additional protection mechanism to ensure that patients have sufficient information before making a decision regarding alternative treatments. This is also a form of protection. The patient's right to information also includes protection against fraudulent practices or information coercion. CAM practitioners should explain treatment methods without deceiving or forcing patients to accept inaccurate or questionable information. In addition, the patient's right to information in the perspective of CAM law may include the right to provide feedback or comments on the treatment received. This creates a feedback loop that is important for improving the quality of CAM services and involving patients in their treatment process (Hasliani & Wulandari, 2023).

Overall, patient information rights in CAM law create a strong foundation for ensuring that patients have sufficient and relevant information to make informed decisions about their chosen alternative treatment. Understanding and respecting this right is key in building a trusting relationship between CAM practitioners and patients.

### **CAM Practitioners' Legal Roles and Responsibilities in relation to Patient Consent**

CAM practitioners' legal roles and responsibilities in relation to patient consent are critical to ensuring that patients can make informed decisions about the medical treatments or procedures they will undergo according to the appropriate standard of care (Raposo, 2019). Here are three points related to CAM practitioners' legal roles and responsibilities.

#### 1. Providing Complete and Comprehensible Information

CAM practitioners have a responsibility to provide patients with complete and understandable information about the proposed procedure or treatment. The

information should include the risks, benefits, alternatives, and consequences of the procedure. The practitioner must ensure that the patient fully understands the information provided. This involves effective communication and answering the patient's questions clearly (Khayru, 2022). Patient understanding is key to ensuring informed consent.

## 2. Patient Consent Standard

Communication between practitioners and patients should be transparent and honest. Practitioners should avoid providing misleading or inaccurate information. Transparency allows patients to make decisions that are appropriate to their needs and values. CAM practitioners have an obligation to respect the patient's decision, whether to consent to or refuse a procedure or treatment. This reflects the principle of patient autonomy and their right to make decisions in accordance with personal values and preferences. Unlike conventional medical practices that often have clear standards of medical consent, in CAM, there may not be universal standards regarding the patient consent process. Therefore, the law should develop clear and binding guidelines to ensure that CAM practitioners adhere to the highest standards in obtaining patient consent.

## 3. Understood Benefits and Risks

Some CAM methods may involve risks and benefits that are not well understood by patients. Patient consent should take this into account, but vagueness or uncertainty around risks and benefits may hinder the informed consent process. The law should regulate the obligation of CAM practitioners to provide clear and understandable information so that patients can make informed decisions.

## 4. Ethical and Legal Responsibilities

CAM practitioners are faced with complex ethical questions related to patient consent, especially in the context of alternative medicine methods that may not be universally recognized. The role of the law here is to guide and establish a clear ethical framework. The law should also ensure that CAM practitioners understand and comply with their ethical responsibilities regarding patient consent. Some CAM methods may involve special ethical considerations, especially if they are not universally recognized. Practitioners should be able to clearly explain certain ethical aspects and guide patients in making appropriate decisions (Kerridge et al., 1998).

By understanding and adhering to these roles and responsibilities, CAM practitioners can ensure that patient consent is conducted ethically and in accordance with the legal standards applicable to CAM practice. This also involves legal involvement to protect the rights of patients and maintain the integrity of medical practice.

### **Patient Safety in the CAM Legal Framework**

This aspect is crucial to protect the well-being of patients seeking alternative medicine or treatment. The following is an explanation of patient safety in the context of CAM law:

#### 1. Disclosure of Risks and Benefits

CAM practitioners have a legal obligation to clearly and transparently disclose the risks and benefits of the proposed method or treatment. This information enables patients to make informed decisions and consider safety aspects before undergoing treatment. Patients should be given an adequate understanding of the risks associated with the CAM method they are about to participate in. Practitioners should inform patients about possible side effects, allergic reactions, or other risks that may arise.



## 2. Standards of Safety, Professionalism, and Adverse Event Reporting

CAM practitioners must adhere to clinical standards and professional ethics that apply to their practice. This includes applying treatment methods with caution and avoiding actions or procedures that may pose unnecessary risks (Nissen et al., 2013). The law should provide a clear framework to protect patient safety in CAM practice. This includes setting safety standards for specific CAM methods and regulating the reporting of adverse events to health authorities. This ensures that patients are not only protected, but also contribute to CAM research and development. In addition, some jurisdictions regulate CAM practice through licensing and regulatory requirements that ensure practitioners have adequate training and competence. These regulations can help ensure that practitioners operate to a high standard of safety.

## 3. Sanctions for Security Violations

CAM practitioners have an ethical responsibility to put patient safety above all else. Commitment to ethical principles helps ensure that patients receive care that is safe and appropriate to their needs. The law should provide strict sanctions against CAM practitioners who violate safety rules. This creates an incentive to adhere to established safety standards and signals that safety violations will be taken seriously.

Through understanding and implementing these safety aspects within the legal framework, CAM practitioners can provide safe and effective services to patients seeking alternative treatments. It also provides a strong legal foundation to protect the rights and welfare of patients in CAM practice.

### **Legal and Patient Privacy Issues in CAM Practice**

This covers a number of aspects that practitioners and patients need to understand. Here are some key points related to the law and patient privacy issues in CAM practice:

1. **Privacy Regulations:** The law generally recognizes patient privacy as a fundamental right. Legal regulations should ensure that patients' health information is kept confidential in CAM practices. CAM practitioners have a legal obligation to keep patients' health information confidential. This includes medical data, medical history, and other personal information collected during the course of treatment or consultation. This involves adequate privacy arrangements and ensuring that patients have control over their health data. Privacy laws should be in line with general regulations governing patient privacy in the context of healthcare (Radzyminski, 2007). Each jurisdiction has different laws and regulations related to patient privacy rights. Practitioners must understand and comply with the regulations that apply where they practice. For example, in some countries, there are Health Privacy Acts that provide specific protection to medical information.
2. **Privacy-related Informed Consent:** The law should provide for specific informed consent regarding patient privacy in CAM practices. This ensures that patients give explicit consent before their health data is used or shared. Practitioners must document patient information accurately and ensure that records are managed securely and in accordance with legal requirements. In the event of a data security breach or leak of patient information, practitioners must comply with the law and the obligation to notify the patient and the competent authority in accordance with applicable regulations. CAM practitioners should periodically review and update their privacy policies in accordance with changes in the law or their practice.

By incorporating an understanding and application of these practices, CAM practitioners can ensure that patients' privacy rights remain protected while building a solid foundation of trust in alternative medicine.

### **Legal Regulation of Patients' Right to Choose or Refuse CAM Treatment**

It covers various aspects involving the rights and freedom of patients in deciding on the treatment they receive. Here are some points to consider in explaining the legal regulation of patients' right to choose or refuse CAM treatment:

#### **1. Patient Freedom of Choice**

The main concept behind this regulation is the principle of patient autonomy, which gives patients the right to make decisions regarding their own health care. Patient autonomy includes the right to choose or refuse treatment, including CAM methods, based on informed understanding. Patients have the right to access the information they need to make informed decisions. Regulations should ensure that patients have access to information regarding the CAM methods they are considering. Legal regulations should give patients the right to choose or refuse CAM treatment. This includes ensuring that patients can make informed decisions that are in line with their personal values and preferences. CAM practitioners have a legal obligation to provide complete and accurate information to patients about the proposed method, its risks, benefits, and alternatives. Providing comprehensive information allows patients to make informed decisions about their treatment.

#### **2. Written Consent**

Some jurisdictions require CAM practitioners to obtain written consent from patients before providing certain treatments or procedures. Written consent makes it clear that the patient has been provided with adequate information and has given informed consent.

#### **3. Legal Protection against Discrimination**

The law should provide protection against discrimination regarding a patient's choice of treatment. Patients should not be subjected to discrimination or pressure for choosing CAM treatments. Regulations should also provide protection against inappropriate influence or pressure on patients to accept or refuse a particular treatment. CAM practitioners should avoid practices that may coerce or influence patients' decisions in an unethical manner.

#### **4. Clear Legal Regulations**

Clear and detailed legal regulations should be in place to cover the patient's right to choose or refuse CAM treatment. This creates a strong framework to provide direction to practitioners and provide legal certainty to patients. Regulations can also include requirements related to the qualifications and competencies of CAM practitioners to ensure that patients receive treatment from individuals who meet established standards.

Legal regulation acts as a solid and supportive foundation in shaping CAM practice into a system that is fair, ethical, and provides optimal benefits to patients. As such, an in-depth understanding of the legal perspective on patient rights in CAM is essential to ensure that patients' rights are properly protected. This study aims to contribute significant insights into the legal dimensions of patient rights in CAM. Through an in-depth exploration, it is hoped that this research can provide a sharper view of policy, provide guidance to health practitioners, and create adequate regulations to protect patients'

rights in the evolving practice of CAM.

## **CONCLUSION**

Alternative and Complementary Medicine (CAM) has become a significant part of modern healthcare, yet patient rights in this context remains an area that requires further exploration. An in-depth understanding of the legal perspectives on patient rights in CAM is essential given the complexity and diversity of methods involved in this practice. Information rights, patient consent, safety, privacy, and patient freedom of choice in treatment are critical aspects that require serious attention. Clearer legal regulations, ethical guidelines, and stronger protections need to be put in place to ensure that patients can make informed and safe decisions in choosing CAM treatments. This study contributes to this understanding and demonstrates the need for better policy and regulatory direction to protect patients' rights in the evolving CAM practice. Based on the results of this paper, the following recommendations can be made:

1. At the very least, there should be the development of common guidelines regarding the patient consent process in CAM practices. This could help to address confusion among practitioners and patients and ensure that patient consent is conducted transparently and in accordance with legal principles.
2. Strengthened regulation and oversight of CAM practitioners is needed to ensure that they adhere to high safety and ethical standards. This could include the establishment of specialized regulatory agencies and increased monitoring of CAM practices.
3. There is a need to improve the availability and quality of information related to CAM methods. This could involve providing official information guides that are easily accessible to patients and compiled in easy-to-understand language.
4. The development of specific patient privacy guidelines is needed regarding CAM. This helps to address challenges related to the use of patients' health information and ensure that their privacy rights are respected.
5. The implementation of legal education programs aimed at CAM practitioners and patients can help improve their understanding of their rights and responsibilities in CAM practice. This may include workshops, seminars, or online educational resources.
6. Closer collaboration between relevant parties, such as CAM practitioners, regulatory agencies, and other health stakeholders, can help create a more regulated and well-supervised practice environment.
7. There is a need to develop a clearer ethical framework for CAM practitioners, especially in relation to patient consent. This can help address complex ethical questions and ensure that practitioners act with integrity and transparency.
8. Continued research is needed to continue to understand changes in CAM practice and evaluate the effectiveness of the regulations in place. This research can assist in adjusting policies and regulations in line with recent developments in the field of CAM.

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