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GOVERNOR OF HAWAII

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Committee on Consumer Protection and Commerce

HB 2052, RELATING TO PROVIDER ORDERS FOR LIFE-SUSTAINING TREATMENT

Testimony of Wes Lum
Director, Executive Office on Aging
Attached Agency to the Department of Health

Monday, February 10, 2014; Conference Room 325

2:45 p.m.

EOA's Position: The Executive Office on Aging (EOA) supports this measure.

Purpose and Justification: This bill is similar to HB2317, which is part of the Governor's package, that expands healthcare provider signatory authority to include advanced practice registered nurses (APRN) and corrects inconsistencies over terms used to describe who may sign for a Physician Orders for Life-Sustaining Treatment (POLST) form on behalf of a patient.

This measure also reflects the recommendation of the State Plan on Alzheimer's Disease and Related Dementias (ADRD) to realize the goal of enhancing care quality and efficiency. We believe that in order for Hawaii to achieve the vision of the best quality of life for those touched by dementia, it is imperative to achieve the highest quality of culturally competent care possible and a state infrastructure sensitive to the needs of people with ADRD and their care partners. Consumers and their families need to have all appropriate services and care to maximize quality of life, delivered in a coordinated way from early and accurate diagnosis to the end of life. POSLT is a

holistic method of planning for end of life care and a specific set of medical orders that ensure that patients' wishes are honored. Therefore, expanding healthcare provider signatory authority to include APRNs will assist with a timely completion of a POLST for persons with dementia. Thank you for the opportunity to testify.

Written Testimony Presented Before the
House Committee on Consumer Protection and Commerce
February 10, 2013 2:45 p.m.

by
Kathy Yokouchi, Policy Analyst
Hawaii State Center for Nursing
University of Hawai'i at Manoa

HB 2052 RELATING TO PROVIDER ORDERS FOR LIFE-SUSTAINING TREATMENT.

Chair Belatti, Vice Chair Morikawa, and members of the House Committee on Health, thank you for this opportunity to provide testimony in strong support of this bill, HB 2052.

The Hawaii State Center for Nursing supports increasing access to POLST by updating references from "physician orders for life-sustaining treatment" to "provider orders for life-sustaining treatment" throughout chapter 327K, HRS; particularly, expanding health care provider signatory authority to include advanced practice registered nurses (APRNs); and correcting inconsistencies over terms used to describe who may sign a POLST form on behalf of a patient. POLST is a tool to help ensure that patients make informed decisions and that their wishes are honored across health care settings. POLST requires a meaningful dialog between patients and their physicians or APRNs (especially in rural, medically underserved areas of Hawai'i).

HB 2052 is consistent with barrier-breaking legislation made between 2009-2011, when the Legislature authorized¹ APRNs to function independently as primary care providers to help relieve the oncoming shortage of primary care physicians².

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suffer a net loss of approximately 50 physicians every year in the face of dramatically rising demand. If the delivery system remains the same as today, many Hawai'i residents will not have timely access to care. The indigent and elderly will feel it first. As the shortage deepens, we'll all experience the effects". The ten top solutions identified by the working groups to be addressed most urgently include the use of non-physician clinicians (*Report to the 2011 Hawaii State Legislature: Report on Findings from the Hawaii Physician Workforce Assessment Project*. Withy, K. and Sakamoto, D.T. John A. Burns School of Medicine, December, 2010).

Written Testimony Presented Before the
House Committee on Consumer Protection and Commerce
February 10, 2013 2:45 p.m.

by
Dale Allison, PhD, WHNP-BC, FNP, APRN-Rx, FAAN
Hawaii State Center for Nursing
University of Hawai'i at Manoa

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Written Testimony Presented Before the
House Committee on Consumer Protection and Commerce
February 10, 2013 2:45 p.m.
by

Lenora Lorenzo DNP, APRN, FAANP
Family, Geriatrics and Diabetes Nurse Practitioner
Region 9 Director, American Association of Nurse Practitioners

HB 2052 RELATING TO PROVIDER ORDERS FOR LIFE-SUSTAINING TREATMENT.

Chair Belatti, Vice Chair Morikawa, and members of the House Committee on Health, thank you for this opportunity to provide testimony in strong support of this bill, HB 2052.

The American Association of Nurse Practitioners and I as a practicing APRN supports increasing access to POLST by updating references from "physician orders for life-sustaining treatment" to "provider orders for life-sustaining treatment" throughout chapter 327K, HRS; particularly, expanding health care provider signatory authority to include advanced practice registered nurses (APRNs); and correcting inconsistencies over terms used to describe who may sign a POLST form on behalf of a patient. POLST is a tool to help ensure that patients make informed decisions and that their wishes are honored across health care settings. POLST requires a meaningful dialog between patients and their physicians or APRNs (especially in rural, medically underserved areas of Hawai'i).

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Monday – February 10, 2014 – 2:45pm
Conference Room 325

The House Committee on Consumer Protection & Commerce

To: Representative Angus L.K. McKelvey, Chair
Representative Derek S.K. Kawakami, Vice Chair

From: George Greene
President & CEO
Healthcare Association of Hawaii

Re: **Testimony in Support**
HB 2052 — Relating to Provider Orders for Life Sustaining Treatment

The Healthcare Association of Hawaii (HAH) is a 116 member organization that includes all of the acute care hospitals in Hawaii, the majority of long term care facilities, all the Medicare-certified home health agencies, all hospice programs, as well as other healthcare organizations including durable medical equipment, air and ground ambulance, blood bank and respiratory therapy. In addition to providing quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing nearly 20,000 people statewide.

Thank you for the opportunity to testify in support of HB 2052, which promotes efficiency in advance care planning. HB 2052 modernizes provider orders for life-sustaining treatment by changing references of "physician orders for life-sustaining treatment" in the Hawaii Revised Statutes to "provider orders for life-sustaining treatment," expanding signatory authority to include advanced practice registered nurses. HAH supports the intent and spirit of HB2052, which is to improve the quality of life for patients through expanded efficiency and consistency in advance care planning.

Thank you for the opportunity to testify in support of HB 2052.

HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

February 10, 2014

The Honorable Angus L. K. McKelvey, Chair
The Honorable Derek S. K. Kawakami, Vice Chair
House Committee on Consumer Protection and Commerce

Re: HB 2052 – Relating to Provider Orders for Life-Sustaining Treatment

Dear Chair Belatti, Vice Chair Morikawa and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in support of HB 2052, which increases access to physician orders for life-sustaining treatment (POLST).

It has long been HMSA's mission to improve the health and well-being of our members, and for all the people of Hawaii. A POLST form serves as a portable and recognized vehicle for documenting an individuals' end-of-life care and medical orders. We acknowledge the importance of communication between patients and health care providers.

Updating the references from "physician orders for life-sustaining treatment" to "provider orders for life-sustaining treatment" throughout chapter 327K, HRS; will allow advanced practice registered nurses (APRN) to also complete a POLST directly with patients and families. We believe that expanding access to APRNs to complete POLST forms will be highly beneficial for individuals, especially those living in rural areas or the neighbor-islands.

Thank you for the opportunity to testify in support of HB 2052. Increasing access to POLST will improve the health and well-being for all the people of Hawai'i.

Sincerely,

A handwritten signature in black ink, appearing to read "JD", with a long horizontal flourish extending to the right.

Jennifer Diesman
Vice President
Government Relations

February 8, 2014

Esteemed Committee Members:

I am a state and national leader in hospice and palliative medicine and I am writing in strong support of HB2052.

I serve as Medical Director for the largest hospital-based palliative care program in Hawaii, at The Queen's Medical Center. I serve as Vice-Chair of the Board of *Kokua Mau*, Hawaii's hospice and palliative care organization, Vice-President of Hawaii Physician's for Compassionate Care. I am Chief of the Division of Palliative Medicine and Professor of Geriatric Medicine at the John A. Burns School of Medicine of the University of Hawaii. Nationally, I serve on the Board of Directors and Chair of the Publications Committee for the American Academy of Hospice and Palliative Medicine. I have authored numerous book chapters and peer-reviewed journal articles in the field of palliative medicine. My opinions expressed here are my own.

As an expert in the field of end-of-life care I know that loss of control is one of the greatest fears of those living with advanced illness. Any sense of control can bring immense comfort and peace of mind. When it comes to avoiding unwanted medical treatments at the end of life, Physician Orders for Life Sustaining Treatments (POLST) are unsurpassed. In many studies, POLST have been shown to be nearly 100% effective in preventing unwanted treatments while other directives, such as living wills, have not been shown effective. Furthermore, POLST have never been shown to be a barrier to people receiving the treatments that they do desire. Patients are free to indicate as they wish full life-prolonging measures, comfort measures, or a balanced approach between the two.

Unfortunately, access to care continues to be an issue, particularly for those with advanced illness. Many patients that would wish to complete a POLST to avoid unwanted medical treatment are confined to their beds at home, in a nursing facility, or in hospice. Advanced practice nurses have been critical in providing needed medical care to these patients. On my own team, advanced practice nurses outnumber physicians 5 to 3. Not permitting Advance Practice Nurses to sign POLST forms in Hawaii, as they are empowered in other states, means many citizens of Hawaii in need cannot complete them, leaving them vulnerable to unwanted aggressive treatment, such as electric shocks to the chest or placement on an artificial respirator, at the end of life when most people would prefer a focus on their comfort and dignity.

Please help those of us caring for people with advanced illness. Please pass HB2052.

Thank you for your thoughtful attention to this important matter.

Respectfully,

Daniel Fischberg, MD, PhD, FAAHPM

Written Testimony Presented Before the
House Committee on Consumer Protection and Commerce
February 10, 2014 2:45 p.m.
by

Gayle Bovee, University of Hawai'i Hilo BSN Student, Class of 2014

HB 2052 RELATING TO PROVIDER ORDERS FOR LIFE-SUSTAINING
TREATMENT.

Chair Belatti, Vice Chair Morikawa, and members of the House Committee on Health, thank you for this opportunity to provide testimony in strong support of this bill, HB 2052.

I, Gayle Bovee, support increasing access to POLST by updating references from "physician orders for life-sustaining treatment" to "provider orders for life-sustaining treatment" throughout chapter 327K, HRS; particularly, expanding health care provider signatory authority to include advanced practice registered nurses (APRNs); and correcting inconsistencies over terms used to describe who may sign a POLST form on behalf of a patient. POLST is a tool to help ensure that patients make informed decisions and that their wishes are honored across health care settings. POLST requires a meaningful dialog between patients and their physicians or APRNs (especially in rural, medically underserved areas of Hawai'i).

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This matter is of particular importance to me as a student in the School of Nursing at University of Hawai'i Hilo, as I am currently doing my clinical rotation with Hospice of Hilo and truly believe that a patient's quality of life rests on an assurance that one's end-of-life wishes will be acted upon.

Therefore, I, Gayle Bovee, respectfully request passage of this measure. I appreciate your continuing support of nursing and education in Hawai'i. Thank you for the opportunity to testify.

kawakami3-Benigno

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 09, 2014 11:02 AM
To: CPCtestimony
Cc: markus.faigle@gmail.com
Subject: *Submitted testimony for HB2052 on Feb 10, 2014 14:45PM*

HB2052

Submitted on: 2/9/2014

Testimony for CPC on Feb 10, 2014 14:45PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Markus Faigle	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Jacqueline M Mishler RN BSN PCCN
Post Office Box 892
Kula, Hawaii 96790
561-8673

HB2052 Physicians/Providers Orders for Life Sustaining Treatment
CPC Monday 2/10/14

My name is Jackie Mishler. I am a Certified Progressive Care nurse from Maui. I have been involved in Advance Directives and POLST since they became part of Hawaii law and practice. I support and promote Advance Directives as a community service and have had special concerns about POLST legislation.

POLST is first and foremost a physician's order. It was originally created to replace the Do Not Resuscitate (DNR) bracelets provided by the State Department of Health and is a "choose/refuse" document for life-sustaining treatment choices or options. The POLST form was originally designed to be filled out and signed by the patient or patient's agent and then signed by a doctor, turning it into a physician's order for treatment.

Used in this manner, the POLST form provides a clear and transparent expression of the patient's wishes. A patient can use an Advance Directive to select a surrogate decision maker or agent. This documents the patient's choice of someone to make medical decisions in the event of the patient being incapacitated, that someone being termed an 'agent' and is a designated surrogate.

Unfortunately, there is a weakness in the original legislation in instances where the patient did not designate a surrogate. There are situations where a patient becomes incapacitated, does not have a designated surrogate, and a surrogate decision maker must be provided that was *never designated* by the patient. Unlike the POLST form for designated surrogates, which together with the Advance Directive provides transparency, documentation of how the choice for surrogate was arrived at, and accountability for the decisions, the process for selecting a non-designated surrogate can lack these fundamental protections. But the non-designated surrogate gains the same powers to choose or refuse life-sustaining treatment for the patient that a patient-selected, designated surrogate or agent is given.

This is the problem with the current legislation, its inconsistency of protection and standards. This needs attention first. There exists, on the one hand, a carefully developed process for Advance Directives and surrogate selection, which can then be linked to a POLST form which indicates who is making decisions for the patient, what their relationship is, and how they were selected. What is needed is a formalization of the process for non-designated surrogates with the same documentation and accountability.

Since there cannot be an Advance Directive for a non-designated surrogate, there should be a required attachment to a POLST form signed by any non-designated surrogate. This attachment should provide complete information about how the non-designated surrogate was selected, what the relationship is with the patient, and whether or not there is any financial relationship. This need not be a long form, but it should be sworn and notarized, and the Supervising Health Care Provider should be required to insure that it is completed. This would put designated and non-designated surrogates on equivalent footing.

When you consider the weakness in accountability for non-designated surrogates that exists currently, expanding authority for who can sign a POLST document to promote it to the status of an order seems very premature. As a society we have given physicians exclusive authority to write orders that affect a patient's life or death treatment. The legislation under consideration proposes to alter this basic authority in the health care field. While there are very good arguments for allowing this expansion of authority, the major problem with the bill is that this expansion is being put in place on a flawed foundation. The bill does nothing to fix the lack of accountability and transparency in the selection of a non-designated surrogate.

If the legislation under consideration is passed in its current form, I believe incapacitated patients will be at risk. Proponents will argue that it is rare, unlikely, far-fetched. But contrast the care with which Advance Directives and the POLST for agents or designated surrogates have been crafted. Patients protected by these provisions

have genuine advocates. A non-designated surrogate may be no advocate for the patient but for other, currently unidentified interests. Granted, predicting future effects is very difficult. But as an example, in its current form POLST could be co-opted because of cost pressures and be used against the interests of aged and unprotected patients through a vague and unenforced system of non-designated surrogates. Please do not take me as saying that this is at all the intention of those proposing this bill. I don't believe it is. But unintended consequences count the same as intended ones, once legislation is passed. I think most of us with some experience can reflect on the difficulties created by the unintended consequences of well-intentioned legislation. It is one of the reasons legislative hearings are held and testimony taken, and is a strong reason for proceeding cautiously with as much agreement as possible.

I present this testimony with the hope that the Consumer Protection Committee is the best place to formalize and make consistent the process for all surrogate selection. If this concern is addressed, I would have no problem with expanding the signatory for the form as I have great respect for and appreciation of advanced practice nurses and as the form itself seems well balanced and fair.

Thank you for your consideration.

A handwritten signature in cursive script, appearing to read "Julie Kahl". The signature is written in dark ink on a white background.

Testimony on HB 2052 relating to Provider Orders for Life-Sustaining Treatment

My name is James H. Pietsch. I am a professor at the University of Hawaii and, while I teach in the schools of law, medicine and nursing at the University of Hawaii, this testimony is submitted in my individual capacity and does not necessarily reflect the views of the university.

First of all, I fully support expanding health care provider signatory authority to Advance Practice Registered Nurses.

However, I do have a few suggested changes and additions to the bill.

In Section 3.1 of the bill I suggest deleting the reference to “power of attorney” which is a legal document and not an individual who would be authorized to make health care decisions. If clarity is desired for the type of agent, the definition could include “an agent designated in a power of attorney for health care.” I would also suggest changing the term “Legal Representative” to “Legally Authorized Representative” which is used in other health care contexts. Accordingly, I would suggest Section 3.1 of the bill be amended to read: ...“Legally Authorized Representative” means a guardian, agent, or surrogate as those terms are defined in section 327E-2 or ...“Legally Authorized Representative” means a guardian, agent designated in a power of attorney for health care, or surrogate, as those terms are defined in t section 327E-2.

Further, since there are several flaws in the POLST form currently utilized in the health care community, I would suggest including an optional sample form in the statute. There is a precedent as an optional sample advance health care directive is provided in Chapter 327E-- Uniform Health Care Decisions Act (Modified) and has proven to be very useful to consumers and health care providers. Alternatively, I would suggest requiring the Department of Health to develop or approve such a form through the administrative process.

Finally, although perhaps ancillary to discussion of this particular bill, there continue to be problematic areas with respect to the authority of so called “non-designated surrogates” to make certain health care decisions on behalf of an incapacitated patient on the POLST form and specifically decisions to withhold or withdraw artificial hydration and nutrition as provided in Chapter 327E. To many, the underlying provision, specifically section 327E-5 (g) is confusing and can have a direct effect on decisions made by the provider and legally authorized representative when addressing end-of-life issues for the patient. It should be changed or explanations ed or safeguards should be included in Chapter 327K or at least in the POLST form developed for use by consumers and health care providers.

Thank you for the opportunity to provide this testimony.

Respectfully submitted,

James H. Pietsch

LATE

**Written Testimony Presented Before the
House Committee on Consumer Protection
Monday February 10, 2014 2:45pm
by
Valisa Saunders MN, APRN, GNP-BC**

**HB 2052 RELATING TO PROVIDER ORDERS FOR LIFE-SUSTAINING TREATMENT
(POLST)**

Chair Belatti, Vice Chair Morikawa, and members of the House Committee on Health, thank you for this opportunity to provide testimony in strong support of this bill, HB 2052.

HB 2052 supports increasing access to POLST by updating references from "physician orders for life-sustaining treatment" to "provider orders for life-sustaining treatment" throughout chapter 327K, HRS; particularly, expanding health care provider signatory authority to include advanced practice registered nurses (APRNs); and correcting inconsistencies over terms used to describe who may sign a POLST form on behalf of a patient. POLST is a tool to help ensure that patients with serious health problems will make informed decisions and receive the most appropriate care for their condition and goals. The POLST can also help ensure that their wishes are honored across health care settings. The POLST is the only document that Emergency Medical Services (EMS) Personnel can legally use as directions on code status and other medical interventions but allows them to help those in need with a variety of interventions. The POLST is not only important for communicating goals of care between settings, but provides a systematic approach to communicating with our clients and their families when appropriate. The POLST can be updated, as wishes or goals change consistent with the client's preferences stated in Advance Health Care Directives

I have been working in Hawaii in this Geriatric APRN role for 30 years and am currently work at the two State Long Term Care Facilities on Oahu; Maluhia and Leahi Hospitals. Prior to starting in this role in 2011, I worked at Kaiser Permanente for 25 years in geriatrics in clinics, home visits, acute and long term care facilities. Throughout my career in Hawaii, I have been involved in care of the elderly, disabled and terminally ill. I am often the lead provider in counseling patients and families on end of life goals of care during their acute and chronic diseases and when Hospice care may be appropriate. However, my inability to sign the form often delays implementation of the care plan. While I always work in collaboration with attending physicians, specialists and other members of the team, we are not always in the same area at the same time and the time between initiation and completion is unduly delayed.

More than half the States that have POLST forms of some kind allow APRNs to sign these forms and quickly trending in this direction. Many organizations and physicians often turn to the APRN to assist families to process these important decisions about their

health care in their final chapters of life. I think it is also of note that the Medicare Modernization Act of 2003 (MMA, 2003) authorized Nurse Practitioners to be “Hospice Attending” and that role is now a reality in Hawaii in several organizations and they are being used in Palliative Care programs as well. This recognition is testimony to the federal government’s recognition of the APRN in end of life care, and the POLST is one important tool in that process. I hope that Hawaii will join the growing number of states recognizing this role for APRNs to improve medical directives for care so that patients get the right care in the right place at the right time.

Therefore, I, Valisa Saunders MN, APRN, respectfully requests passage of this measure. I appreciate your continuing support of nursing and education in Hawai'i. Thank you for the opportunity to testify.

Mahalo Nui Loa,

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LATE

Aloha Senators Green, Baker, and members of the Committee on Health,

As an advance practice registered nurse (APRN) with The Pain and Palliative Care Department at The Queen's Medical Center, discussions related to patient choices and end-of-life care are a routine part of the care I provide to palliative care patients and families. As these patients transition toward discharge from the hospital, I include in my discussions, when appropriate, the POLST document. It only makes sense that as a practitioner qualified in having end-of-life care discussions with patients and families, I should also be authorized to sign the document. I am in support of renaming the POLST to mean "provider orders for life-sustaining treatment."

Mahalo,

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KŌKUA MAU
"Continuous Care"

Hawai'i Hospice and Palliative Care Organization

P.O. Box 62155 • Honolulu, HI 96839 • Tel: 808-585-9977 • Fax: 808-988-3877 • www.kokuamau.org

Testimony in Support of HB 2052 – RELATING TO PROVIDER ORDERS FOR LIFE-SUSTAINING TREATMENT (POLST)

This testimony is in support of HB 2052, important legislation that will expand access POLST across the state. Since its implementation in 2009, POLST has been successful in Hawaii. HB2052 will allow APRNs in addition to physicians to sign this important document. This means that more people will be able to have a POLST, if they chose to do so, to document their wishes for care. APRNs play an important role in care in Hawaii, not only in rural areas and long term care settings but also in our major hospitals in the middle of Honolulu. Including these highly trained professionals means that the people of Hawaii facing serious illness as well as their loved ones can better avoid crisis, reduce stress and get the appropriate care they want and need by having a portable providers orders that can be honored by EMS as well as other medical professionals.

In my role as Executive Director of Kokua Mau, Hawaii's Hospice and Palliative Care Organization, I see the importance of POLST. We have spearheaded efforts to educate professionals as well as the general public about POLST and host all POLST materials on our website (www.kokuamau.org). There is a POLST Task Force, staffed by Kokua Mau, which includes local experts who have worked on this legislation as well as providing training and addressing questions which arise from practitioners. The motivation for this legislation arose from that committee who experience first hand the bottlenecks that occur in completing POLST and welcome the addition of APRNs.

I hear stories, from all parts of the state, about how POLST has helped to avert crisis and provide comfort to families who strive to care for their loved ones. POLST is an important part of Advance Care Planning and is making a difference around the state. Nationally, POLST is seen as a best practice and the expansion of signing privileges to include APRNs is in keeping with national recommendations.

We enthusiastically support this legislation. Please contact me if you have any questions.

Jeannette Kojane

Executive Director
Kokua Mau

kawakami3-Benigno

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 09, 2014 4:04 PM
To: CPCtestimony
Cc: nursetonimiller@gmail.com
Subject: *Submitted testimony for HB2052 on Feb 10, 2014 14:45PM*



HB2052

Submitted on: 2/9/2014

Testimony for CPC on Feb 10, 2014 14:45PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Toni Furrow	Individual	Support	No

Comments:

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