IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

HAROON I. HAMEED,	*	
Plaintiff,	*	
	*	
v.	*	Case No.: 1:25-CV-1606-BAH
	*	
MARYLAND STATE BOARD OF	*	
PHYSICIANS, *et al.,*	*	
Defendants.	*	

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MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S OPPOSITION TO DEFENDANTS CHRISTINE FARRELLY & TROY GARLAND'S MOTIONS TO DISMISS

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INTRODUCTION

Plaintiff Haroon I. Hameed, M.D., proceeding pro se, respectfully submits this memorandum in opposition to Defendants' Motion to Dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). For the reasons below, the motion should be denied at least in part and this matter should proceed to discovery.

Plaintiff has plausibly alleged that Defendants (hereinafter the "Board"), Maryland Board of Physicians (hereinafter "MBP"), Christine Farrelly (hereinafter "Farrelly"), Troy Garland (hereinafter "Garland"), Doreen Noppinger (hereinafter "Noppinger"), Alexandra Fota (hereinafter "Fota"), and John and Jane Doe Members of the MBP, acting under color of state law, published and disseminated knowingly false and stigmatizing statements about him, resulting in tangible loss to his professional standing and reputation, without due process and with malice. These allegations support a claim for violation of his liberty interest under the Due Process Clause of the Fourteenth Amendment, actionable under 42 U.S.C. § 1983. While the Defendants Farrelly and Garland assert that the core complaint by Haroon Hameed arises out of a 2021 Final Order, in reality, the core complaint states grounds for legal claims under 42 U.S.C. § 1983 as ongoing procedural due process violations in that the Board and, specifically and

substantially, Farrelly and Garland failed to act on and suppressed exculpatory information produced by their own agents, including those acting at (e.g., Astrid Richardson-Ashley, Senior Clinical Manager) and under the supervision of (e.g., Heidi Mattila PhD, Psychologist) the Maryland Physician Rehabilitation Program (MPRP), an MBP supervised agency who provided regular updates to the Board, no less than quarterly, over the course of the preceding 5 years. ECF 1 at 1, 2, 23-25, 28, 34, and 40.

In addition, there is good cause to believe, as Plaintiff's previous attorney at the time of his license revocation, Natasha Wesker – who was previously an Assistant District Attorney for the State of Maryland working with, and on behalf of, the MBP – stated to the Plaintiff that the staff at the MBP, including specifically Farrelly and Garland, are affected by secondary financial gain in adding additional charges, particularly including those without merit, against medical providers in their jurisdiction who are caught up in the disciplinary process in the State of Maryland by "charge-stacking" (adding additional non-verified charges) and revoking additional practitioner medical licenses as their bonus structures and performance review evaluations are tied to these metrics. This in turn is perpetuated in the review process of medical license suspensions and is directly related to the willful concealment and inaction despite exculpatory evidence that is produced during the course of "treatment" and "supervision" under the MBP's disciplinary process.

It is worth noting – and contrary to the assertions in the motions submitted by Christine Farrelly and Garland (ECFs 26-1 and 30-1 at page 4) – that panel members of the MBP "review", in most cases, thousands of pages of legal documentation prior to each Panel meeting – which it is assumed that they review with the same diligence and time per page as when they charge for paid chart reviews – and that these reviews, as per former MBP Chairman Damean

Freas, culminate in adjudications carried out under the direction and recommendations of MBP staff (not in some sort of Board Member vacuum, as in most cases instead of reading the entire files they rely on MBP staff for their positions, and in some cases such as the Plaintiff's, Farrelly, Garland, and other staff members' power in the disciplinary process supersedes that of Board Members' to a significant degree), all of whom are presumed to have the requisite knowledgeable in the color and letter of the law and of the legal duties and standards that underlie the judicial powers that they are clothed with. It is the Plaintiff's contention, that the findings of the agents of the MBP in his file were willfully and knowingly ignored with malice, to willfully and knowingly conceal illegitimate actions with malice taken on the part of the Board, including specifically and substantially Christine Farrelly and Troy Garland, prior and after each such file review process from 2020 to 2025, and that both the Board and specifically to the extent that John and Jane Doe Board Members were made aware of such findings, all Defendants are jointly and severally implicated.

FACTUAL BACKGROUND AND PROCEDURAL POSTURE

Plaintiff incorporates by reference Section II (Factual Background and Procedural Posture) from ECF 21, and respectfully requests the Court to read all references to "MBP" or "the MBP" therein, to the extent they describe actions plausibly taken by agency staff or decisionmakers, as referring to "the Board, and specifically both Executive Director Farrelly and Probation and Monitoring Officer Garland," to accurately reflect their personal involvement in the alleged constitutional violations. This substitution is particularly appropriate given Farrelly's role as Executive Director in signing all relevant orders, and both Farrelly's role as Executive Director and Garland's role as Probation and Monitoring Officer in (1) receiving but ignoring

exculpatory evidence from Board agents; and (2) maintaining false charges in the 2025 termination order despite actual knowledge of their falsity.

STANDARD OF REVIEW

A. Plaintiff Has Sufficiently Pled Individual Liability Against and Garland At The Rule 12(B)(1) and 12(B)(6) Stage

In considering Defendant Christine Farrelly's and Tory Garland's Motions to Dismiss under Rules 12(b)(1) and 12(b)(6), the Court must adhere strictly to the controlling standard that governs these motions. For motions brought under Rule 12(b)(1), challenging the Court's subject matter jurisdiction, the plaintiff bears the burden of "colorably [stating] facts which, if proven, would entitle him to relief." Adams v. Bain, 697 F.2d 1213, 1219 (4th Cir. 1982). Regarding Rule 12(b)(6), to survive a motion to dismiss, a complaint need only "contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)). The plausibility standard is not onerous; it requires more than mere possibility but significantly less than probability. Id. The Court must accept as true all factual allegations in the Complaint and draw all reasonable inferences in Plaintiff's favor. Erickson v. Pardus, 551 U.S. 89, 94 (2007). At this stage, the Court's role is not to determine whether Plaintiff will ultimately prevail, but rather whether Plaintiff is entitled to offer evidence in support of his claims. Scheuer v. Rhodes, 416 U.S. 232, 236 (1974).

The Plaintiff has satisfied Rules 12(b)(1) and 12(b)(6) here, as well as in previous filings in this litigation, and those allegations have not been disputed, including: (1) the MBP, its staff, including, the named defendants, including, Farrelly, Garland, Fota, Noppinger, and John and Jane Doe Members of the MBP, knew that the charges of opioid addiction and habitual

intoxication against him were false, at the very least, after the 2021 order as this information was transmitted to the Board by its own agents, (2) the MBP's corrupt internal processes that reward internal staff for the number of suspensions and charges that physicians receive influence their extreme reluctance to correct their public facing records prospectively, and (3) that the MBP, its staff, including, the named defendants, including, Farrelly, Garland, Fota, Noppinger, and John and Jane Doe Members of the MBP, also knew or should have known about this, were complicit in these actions, and as such, the Plaintiff's claims survive. Importantly, dismissal under Rule 12(b)(1) is only proper "if the material jurisdictional facts are not in dispute and the moving party is entitled to prevail as a matter of law." Evans v. B.F. Perkins Co., 166 F.3d 642, 647 (4th Cir. 1999). Here the allegations as above have not been denied by the MBP, Fota, and Noppinger, and this implicated Farrelly and Garland in the same actions as noted above, for which the Plaintiff also alleges that they are jointly and severally culpable, and thus the Plaintiff is entitled to prevail as a matter of law.

Further, Defendants Farrelly and Garland's motions inappropriately conflate standards applicable at later stages of litigation, particularly Rule 56 summary judgment standards, with the pleading requirements of Rule 12(b)(6). The facts alleged demonstrate continued harm, including, but not limited to, Plaintiff's ongoing inability to regain professional DEA licensing, due to persistent, stigmatizing, and incorrect records maintained by Defendants Farrelly, Garland, and the Board, thus satisfying the stigma-plus and reputational harm elements necessary under established Fourth Circuit precedent. Paul v. Davis, 424 U.S. 693, 710-12 (1976); Evans v. Chalmers, 703 F.3d 636, 654 (4th Cir. 2012).

Moreover, Defendant incorrectly applies a single-publication rule to shield ongoing constitutional violations. Plaintiff does not challenge a single past publication but rather ongoing state action maintaining and disseminating false and stigmatizing information, creating continual and prospective harm actionable under Ex parte Young, 209 U.S. 123 (1908). Thus, the relief sought is explicitly prospective—aimed at preventing ongoing and future constitutional harm—not retrospective.

Plaintiff has successfully stated a claim against Defendants Farrelly and Garland in their individual capacity at the level of specificity required at the pleading stage which includes (1) Farrelly and Garland, knew that the charges of opioid addiction and habitual intoxication against him were false, at the very least, after the 2021 order as this information was transmitted to the Board by its own agents, including through the fall of 2022 to present, (2) the MBP's corrupt internal processes that reward internal staff for the number of suspensions and charges that physicians receive influence their extreme reluctance to correct their public facing records prospectively was in fact orchestrated and managed by Christine Farrelly to her and Garland's own benefit, and (3) that the Farrelly and Garland, knowingly, willfully, with reckless disregard for the truth, with intent to harm as they were made fully aware by their own agents (Ashley Richardson-Ashley and Heidi Mattila) of the harm that the false charges were causing to Plaintiff, did not work to review, revise, amend, disavow, or in any way clear the name of the Plaintiff so as to conceal their complicity and Christine Farrelly and Troy Garland's roles as orchestrators of the post 2021 actions taken by the MBP staff and Board Members to protect both their past, present, and future financial benefits for harming physicians, including the Plaintiff. While it is true that § 1983 liability must be premised on personal involvement in the alleged constitutional violations (*Williamson v. Stirling*, 912 F.3d 154, 171 (4th Cir. 2018)), Plaintiff is

only required at this stage to allege facts that plausibly suggest such involvement – not prove it, and as the Plaintiff has clearly done so, this case must proceed to discovery.

Plaintiff alleges and has alleged that Farrelly, Garland, and others at the MBP knowingly and willfully published and republished unfounded accusations of professional misconduct, even after receiving exculpatory expert reports and direct communications putting them on notice of the falsity of the underlying allegations (ECF 1 at 28). These are not mere conclusions—they describe affirmative acts, including communications to third parties, that contributed to an ongoing deprivation of Plaintiff's protected interests in reputation, licensure, and property. These allegations have not been denied and are therefore assumed to be conceded by the other Defendants' – MBP, Fota, and Noppinger. Farrelly is the Executive Director of the MBP, and has signed nearly every final document in the Plaintiff's record, and Garland is the Probation and Monitoring Officer who supervised Plaintiff, and they were central to the repeated violations of the Plaintiff's constitutionally protected Due Process rights – as conceded by silence by previous Defendants (MBP, Fota, and Noppinger) in this litigation to date, as those violations began directly under MBP records (many of which are also found within the ALJ record, email attachments to the Plaintiff, and otherwise) that bear Farrelly's "wet" signatures, and all such information was routed through Garland.

At the motion to dismiss stage, a complaint must simply contain "enough factual matter (taken as true) to suggest" that each defendant's conduct was plausibly unconstitutional. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Twombly*, 550 U.S. 544, 555 (2007). In the Fourth Circuit, the plausibility standard is not akin to a 'probability requirement,' but simply calls for enough facts "to raise a reasonable expectation that discovery" will reveal evidence of personal

involvement. *Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc.*, 591 F.3d 250, 256 (4th Cir. 2009). Furthermore, the Supreme Court has expressly held that § 1983 complaints are not subject to heightened pleading standards, and discovery is the proper stage to develop the extent of each defendant's involvement. *Leatherman v. Tarrant Cnty. Narcotics Intelligence & Coordination Unit*, 507 U.S. 163, 168 (1993).

To the extent Defendant Farrelly suggests now, or in the future, that Plaintiff's naming of Farrelly or Garland was "vague," the Federal Rules expressly permit allegations based on knowledge, information, and belief where the facts are "peculiarly within the opposing party's knowledge"; and the MBP's (including Farrelly and Garland's) arbitrary denial of the Plaintiff's Maryland Public Information Act (MPIA) request only heightened this asymmetry. *See* Fed. R. Civ. P. 8(a), 9(b); *Arista Records, LLC v. Doe 3*, 604 F.3d 110, 120 (2d Cir. 2010).

Each instance where exculpatory information was transmitted to the Board—including internal findings clearing Plaintiff or reports from the MPRP—created a renewed obligation on the part of the Board, including all named and unnamed defendants to this litigation to act. At each point that exculpatory evidence was transmitted to the Board, and it failed to act or continued disseminating inaccurate information, a new due process violation accrued. The Board, comprised of professionals with a statutory and ethical duty to review records and uphold professional fairness, cannot disregard this duty. Failure to act on exculpatory information is a violation of procedural due process. As the Supreme Court recognized, the risk of erroneous deprivation must be minimized by meaningful procedures. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). These are not isolated events, but a pattern of unconstitutional behavior. The statute of limitations should toll or renew based on each such communication. *See Nat'l R.R. Passenger*

Corp. v. Morgan, 536 U.S. 101, 113 (2002) (holding that each discrete discriminatory act starts a new limitations period and must be timely challenged).

The greater the risk of professional harm caused by opaque Board practices, the greater the Board's duty of care becomes. See *United States v. Stevens*, 994 So. 2d 1062, 1067 (Fla. 2008) (this case was regarding Anthrax sourced from a United States governmental facility and mailed to a private individual, but has relevance in the statement regarding duty in that "the risk to be perceived defines the duty that must be undertaken").

The US Supreme Court's principle that public officials cannot hide behind promises of good conduct when enforcing overbroad or vague policies also applies in this case as they have stated that "[w]e would not uphold an unconstitutional statute merely because the Government promised to use it responsibly." See *United States v. Stevens*, 559 U.S. 460, 480 (2010) (a case regarding the overbreadth of a statute limiting depictions of animal cruelty, but whose holding has significant relevance in this case).

Farrelly and Garland cite *Butz v. Economou*, 438 U.S. 478, 515 (1978) in their Qualified Immunity defense, but in that case the Supreme Court held that "if federal officials are accountable when they stray beyond plain limits of their statutory authority, it would be incongruous to hold that they may nevertheless willfully or knowingly violate constitutional rights without fear of liability." Farrelly and Garland then cite *Ostrzenski v. Siegel*, 177 F. 3d 245, 249 (4th Cir. 1999) in their defense, a case about medical peer reviews in which the 4th Circuit Court of Appeals also held that "absolute immunity does not encompass all of a prosecutor's official activities." Farrelly and Garland also cite *Maryland Board of Physicians v. Geier*, 241 Md. App. 429, 519 (2019), a case where a physician's prescription information was divulged, intentionally or unintentionally, but was case that relied purely on defamation, where

on the contrary in this case there is tangible property harm, conceded financial motive, and conceded due process violations by ignoring exculpatory information. Even in *Geier*, the Maryland State Appeals Court held that "Federal law grants most government officials no more than a qualified immunity in defense of a § 1983 claim" (which otherwise has the known exception of malice, and malice has been known to be defined as the "willful and reckless disregard of the truth", particularly in the setting where "known harm" is actioned, and this has been conceded through silence by the MBP, Fota, and Noppinger as the MBP's own agents relayed the harm the false charges were having on the Plaintiff's DEA license related property rights, his startup valued at $25 million, and his ability to practice medicine, including the inability to participate in insurance payor contracts), and that court also held that "Maryland law does not control a § 1983 claim even though the federal cause of action is being asserted in Maryland courts." *Id.*

In sum, this case has little to do with any "ordinary" or "reasonable person standards" of a Board of Medicine's functions such as in the cases Farrelly and Garland cite, but is completely about how the Board has been operating with a willful disregard for the truth, under the influence of personal financial motives, to deny the Plaintiff his constitutionally protected Due Process rights (which has been conceded by the MBP, Fota, and Noppinger in their filings through silence at these allegations). Plaintiff has satisfied all applicable colorable and plausible pleading standards required at this procedural posture, and Defendant Farrelly's motion must be denied, allowing Plaintiff the opportunity to substantiate his claims through discovery and further proceedings.

ARGUMENT

I. Farrelly and Garland Are Not Entitled to Absolute (Sovereign) Immunity or Statutory (Qualified) Immunity, and Qualified Immunity is Also Premature At The Motion To Dismiss Stage

Farrelly, a party that has been intrinsically active in Plaintiff's case since its inception, and Garland, a party that has been tied to Plaintiff's case from 2021 to present, who both knew and concealed for their own personal financial benefit (benefitting financially from increased license suspensions and charges brought on physicians, including the Plaintiff) through fraud and malice, that the Plaintiff's case was based on the testimony of a person of extensive criminal history, and were definitely involved in further deliberations that denied the Plaintiff constitutionally protected relief to veil their previous violations, conflicted employment contracts that rewarded them and those under Farrelly's supervision for adding charges, false, charges, and suspending licenses of physicians in the State of Maryland, and violating physician respondent constitutional rights by knowingly publishing false statements, all of these violations being applicable to the Plaintiff's case, now invoke sovereign and qualified immunity, asserting no clearly established right was violated. This misstates both the facts and applicable precedent.

Farrelly and Garland are not entitled to immunity because they personally received exculpatory evidence (emails from Astrid Richardson-Ashley and/or Dr. Heidi Mattila) confirming Plaintiff's innocence of charges of opioid addiction and habitual intoxication, but willfully ignored those findings, with Farrelly signing and Garland posting the 2025 termination order without correcting false charges, acts of fraud and malice ("reckless disregard for the truth" with "intent to cause harm" and for their own personal financial benefit). This constitutes malice under *Barbre v. Pope* (2007) and defeats both absolute and qualified immunity.

Plaintiff clearly alleges Farrelly and Garland knowingly continued to circulate false statements about opioid addiction and intoxication after Plaintiff's record showed no such diagnosis, and that they did so with knowledge that those statements would affect DEA licensure, medical insurance carrier participation privileges, and the Plaintiff's medical charting startup (valued at $25 million initially), all of which were relayed to the MBP, Farrelly, and Garland via Astrid Richardson Ashley and Dr. Heidi Mattila. Defendants MBP, Fota, and Noppinger failed to deny or refute these allegations – and thus it is implied that they conceded – these points in previous filings in this case, and these concessions directly implicate Farrelly and Garland. The Defendants' – including the MBP, Fota and Noppinger – conceded conduct constitutes "reckless disregard for the truth, that shocks the conscience" and falls squarely into malice and § 1983 Stigma-plus, and these concessions directly implicate Farrelly and Garland.

Under *Hope v. Pelzer*, 536 U.S. 730 (2002), a constitutional right is "clearly established" even absent identical precedent, so long as "officials [had] fair warning their conduct [was] unconstitutional." Here, it was long settled that state actors may not disseminate stigmatizing falsehoods without due process. *Wisconsin v. Constantineau*, 400 U.S. 433 (1971) (". . . abstention should not be ordered merely to await an attempt to vindicate the claim in a state court. Where there is no ambiguity in the state statute, the federal court should not abstain but should proceed to decide the federal constitutional claim" and "[w]here state attaches a badge of infamy to citizen, due process comes into play"). *See Cooper v. Dyke*, 814 F.2d 941, 946 (4th Cir. 1987) (officials lose immunity under § 1983 "for conduct that involves 'reckless or callous indifference to the federally protected rights of others,' as well as for conduct motivated by evil intent").

Though Farrelly and Garland claim Absolute (Sovereign) and Qualified (State) immunity, arguing that Plaintiff did not claim that she acted with malice, Plaintiff alleges that Farrelly, Garland, and the MBP and including but not limited to the other parties named in this case, knowingly circulated false statements, which constitutes malicious conduct and falls outside the scope of immunity – allegations which the other Defendants have not denied (ECF 1 at 28), and which implicate Farrelly and Garland. Additionally, Maryland State Statute §5–522 (b) allows claims against State employees where "malice or gross negligence" is involved, and their conceded actions as just mentioned, of the type that constitute "reckless disregard for the truth, that shock the conscience", fall squarely within the exceptions to immunity in Maryland statute. The Plaintiff's allegations – with the Defendants' concessions are sufficient to overcome the Defendants', including specifically Farrelly and Garland's, absolute and/or qualified State and/or Federal immunity claims at this stage.

It is also worth noting that under Farrelly's tenure as Executive Director as per the available information published on the board's website from 2015 to 2024, physician loss of licensure has increased over seven-fold, from 21 licenses in 2015 to a whopping 153 in fiscal year 2024. Discovery will help crystallize the financial gain realized by MBP staff from the tens of millions of dollars the MBP takes in yearly, account for all the incentives, bonuses, etc. earned by staff for physician disciplinary actions, charges, and license suspensions, and shed light on where these tens of millions of dollars are being spent per year and the conflicted relationship of those transactions in relation to actions against physician licenses such as the plaintiff's.

II. The State Law Claim Falls Under Supplemental Jurisdiction, Statute of Limitations Has Not Been Exhausted Under Any Measure Because They Are Based On Post-2021 (Including 2025) Publications and Are Knowing Failures To Correct Falsehoods, Not A Single Time-Barred Act

This Court has Supplemental Jurisdiction under 28 U.S.C § 1367 over state law defamation claims as the Federal Questions predominate, and the time to file, even under their arguments, has not been exhausted as the last discrete – excluding any ongoing – violations by the MBP, with the definite involvement to a critical and substantial degree by Defendant Farrelly, were on January 24, 2025 (https://www.mbp.state.md.us/BPQAPP/orders/D006326901.245.pdf). A complaint has been filed against all parties – including the MBP, Farrelly, Garland, Fota, Noppinger, and John and Jane Doe members of the MBP – with the Maryland State Treasurer's Office (Ref # 023315-20250716).

Defendants' statute of limitations argument also fails because Plaintiff's claims are not based solely on the issuance of the 2021 Final Order, something the Plaintiff has stated on multiple occasions through the course of this litigation. Rather, Plaintiff alleges that Board officials, including Defendants Farrelly and Garland – after being placed on notice of exculpatory evidence – knowingly republished and continued to rely on the false contents of previous Orders in public communications with third parties, such as the DEA, hospitals, insurers, investors, potential employees, potential employers, and potential clients, among others, etc., of the Plaintiff. These post-Order actions constitute separate constitutional and tortious violations, each restarting the statute of limitations clock. *See Nat'l R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 113 (2002).

The Fourth Circuit has recognized that when state actors knowingly disseminate false information that infringes on a liberty or property interest, a due process violation occurs. *See Sciolino v. City of Newport News*, 480 F.3d 642, 650–51 (4th Cir. 2007) (holding that

stigmatizing statements placed in a personnel file that might be shared with prospective employers can give rise to a procedural due process claim).

Plaintiff's claims are timely because they challenge affirmative post-2021 conduct—republications, administrative reliance, and a failure to correct false information despite actual knowledge, with exculpatory evidence presented to the MBP staff and Board Members, and including specifically Farrelly and Garland, since at least the fall of 2022 to present – well within any statute of limitations period offered. As these acts fall squarely within the limitations period, they are independently actionable. The motion to dismiss on timeliness grounds must therefore be denied.

III. Eleventh Amendment Does Not Bar Claims Against Defendants Farrelly and Garland

First, Defendants Farrelly and Garland acted with improper motive and knowingly and willfully engaged in constitutional violations of the Plaintiff's rights, critically, including through the Board's contractual incentive structure which encouraged MBP staff – including Defendant Farrelly herself, who has been known to be intimately associated with Plaintiff's due process rights violations from its inception, and Garland – to manage disciplinary case records in a manner as to create false charges against respondents, unnecessarily suspend physician licenses to secure MBP staff their ongoing funding, bonuses, and/or employment continuity, and then fail to correct inaccuracies to conceal this group's underlying motives in their original actions. This constitutes not merely isolated bad faith, but a systemic pattern of self-serving conduct resembling a fraudulent scheme, conducted under color of state law, and violating clearly established due process norms. Further, Defendants' conceded conduct constitutes both intrinsic and extrinsic fraud, as their suppression of exculpatory materials and public dissemination of

known falsehoods also occurred after the adjudicatory process and deprived Plaintiff of any meaningful post-deprivation remedy. These unrebutted allegations by MBP (ECF 24), Fota, and Noppinger (ECF 25), in the previous filings in this case directly establish the malice required to overcome the asserted immunities by Farrelly and Garland. The notion that a "final order" from 2021 can somehow shield ongoing malicious conduct or *ultra vires* acts, particularly when new exculpatory evidence is continually being ignored, is contrary to due process principles and the very exceptions to immunity.

The Defendants argue that the Eleventh Amendment bars Plaintiff's claims against the Board and its employees in their official capacities. However, Plaintiff contends that the *Ex parte Young* doctrine allows for prospective injunctive relief against state officials acting in solation of federal law. *See Ex parte Young*, 209 U.S. 123 (1908). The Plaintiff seeks to address ongoing harm caused by the Defendants' and including specifically Farrelly and Garland's, actions, which is not barred by the Eleventh Amendment. Next, Farrelly and Garland's immunity arguments fail to overcome binding precedent that recognizes actual malice (i.e., knowing publication of a falsehood or reckless disregard for the truth, particularly, as in this case, both "matters of public concern", and those which "shock the conscience"), fraud, or ultra vires conduct as exceptions to both sovereign and qualified immunity. *See Cleavinger v. Saxner*, 474 U.S. 193, 200 (1985) (quasi-judicial immunity does not apply where officials act outside their delegated authority). These knowingly false public records were relied upon by the DEA in denying licensure renewal, by insurers in terminating privileges, by potential employees walking away from agreed upon contracts and potential employment, by client practices walking away from deals to use Plaintiff's products, and by investors withdrawing offers of capital contributions to Plaintiff's

businesses – demonstrating proximate causation and foreseeable injury from Defendants' fraudulent conduct.

In addition, Farrelly and Garland also cite the odd case of *Skipper v. Maryland Board of Nursing* where a pro se Plaintiff failed to make any specific claims about the Maryland Nursing Board, and instead implicated the Governor of Maryland, Wes Moore, ignoring the holding about distant supervisory governmental immunity in *Iqbal*. *See Skipper v. Maryland Board of Nursing,* No. 1:25-CV-01225-JRR, 2025 WL 1294927 at *3 (D. Md. May 5, 2025)*; Ashcroft v. Iqbal*, 556 U.S. 662 (2009).

Here, the Plaintiff has asserted that (1) the MBP, its staff, including, the named defendants, including, Farrelly, Garland, Fota, Noppinger, and John and Jane Doe Members of the MBP, knew that the charges of opioid addiction and habitual intoxication against him were false, at the very least, after the 2021 order as this information was transmitted to the Board by its own agents, (2) the MBP's corrupt internal processes that reward internal staff for the number of suspensions and charges that physicians receive influence their extreme reluctance to correct their public facing records prospectively, and (3) that the MBP, its staff, including, the named defendants, including, Farrelly, Garland, Fota, Noppinger, and John and Jane Doe Members of the MBP, also all knew about this, were complicit in these actions, and as such, the Plaintiff's claims survive.

IV. Res Judicata And Collateral Estoppel Do Not Apply To Plaintiff's Claims

Defendant Farrelly and Garland's argument mischaracterizes both the nature of Plaintiff's claims and the scope of collateral estoppel. Plaintiff does not allege that the 2021 Final Order was merely subject to "constant review and revision"; rather, Plaintiff asserts that the Final Order

was based on materially false and incomplete evidence, and that the Board, and specifically Defendants Farrelly and Garland, were later made aware of exculpatory expert findings undermining the factual basis for the Order. Plaintiff's claims rest on the Board, and specifically Defendant Farrelly and Garland's, post-order conduct: their knowing failure to act on this evidence, correct the record, update the record, disavow the record, or notify affected third parties through their public facing notices, personally, officially, or otherwise, among numerous other possible solutions, etc. – including the DEA and insurance entities – despite repeated notice. These acts (and omissions) constitute independent constitutional and tort violations, not simply objections to the original Order.

Collateral estoppel does not bar claims when the underlying proceeding was tainted by fraud, misconduct, or fundamental unfairness, or where the party seeking to avoid estoppel lacked a full and fair opportunity to litigate the relevant issues. *See* Restatement (Second) of Judgments § 28(4) (Collateral estoppel cannot be applied where the burden of proof on the parties has materially and substantially changed in the interval). As material information regarding the reliability of witnesses was suppressed by the Board for the financial benefit of its agents, including Farrelly, Garland, Fota, and Noppinger, fraud is established. Furthermore, government agencies have an ongoing due process duty not to perpetuate known falsehoods or suppress exculpatory material in administrative contexts. Once on notice of post-hearing evidence demonstrating the falsity of its conclusions, the Board, and specifically Defendants Farrelly and Garland, both had a constitutional and ethical obligation to act—particularly where those conclusions continue to harm Plaintiff's licensure, reputation, and economic interests. *See Giglio v. United States,* 405 U.S. 150, 154 (1972). This failure constitutes a new and distinct injury, not foreclosed by the APA or collateral estoppel.

Finally, Plaintiff's claims do not seek to relitigate the substance of the 2021 Order but instead challenge the Board, and specifically Defendant Farrelly and Garland's, subsequent malicious and reckless refusal to correct the record, which has continuing consequences. The wrong here is not the issuance of a flawed order, but the willful perpetuation of known falsehoods. For these reasons, collateral estoppel does not bar Plaintiff's claims, and dismissal is inappropriate.

V. Plaintiff Has Adequately Pleaded A Stigma-Plus Due Process Claim Under The Fourteenth Amendment

To state a claim for a deprivation of liberty without due process under the "stigma-plus" doctrine, Plaintiff must allege (1) a stigmatizing statement or charge, (2) publication of that statement, and (3) a tangible alteration of legal status or right. See *Paul v. Davis*, 424 U.S. 693, 710–711 (1976); *Sciolino v. City of Newport News*, 480 F.3d 642, 646 (4th Cir. 2007).

A. Defendants Farrelly and Garland Published Stigmatizing Statements

Plaintiff alleges that Defendants, including Farrelly, Garland, Noppinger, Fota, and others at the MBP, published and republished unfounded accusations that he engaged in professional misconduct, even after internal findings cleared him. These statements were shared with hospitals, the Maryland Professional Rehabilitation Program (MPRP), and posted on the publicly accessible Board website, which has consistently ranked on the first page of a Google Search under Plaintiff's name (i.e., Haroon Hameed MD). While all defendants are culpable, the extent of involvement of each of the Defendants cannot be stated with certainty prior to discovery. In *Sciolino*, the Fourth Circuit held that "a public employee is deprived of a liberty interest when his employer publicizes stigmatizing charges in connection with the employee's discharge." 480

F.3d at 646. Here, Plaintiff has alleged not only internal circulation but external publication that impacted his employment opportunities, hospital privileges, and professional standing.

B. Plaintiff Suffered Tangible Legal, Financial, and Professional Harm and Deprivation of Property Interests

Plaintiff alleges that these publications by the Board, and including specifically Farrelly and Garland, caused direct harm, including loss of software engineers, investors, and medical practice-users that were first excited to work for, invest in, or engage the use of Plaintiff's medical charting app system, Duality, and then rescinded, walked back their engagement, or simply dropped off after learning of the Plaintiff's MBP related history – and many such individuals and witnesses will be produced at discovery, as well as the investigation-based limitations on his ability to practice, his inability to continue to be licensed by the United Sates Drug Enforcement Agency (DEA) – which was revoked without adequate process and continues to be restricted based on demonstrably false and unrevised Board findings, specifically overseen by Farrelly and Garland, signed by Farrelly and published by Garland – with its consequential loss of the ability to practice Pain Management, the loss of other physician employment opportunities, the failure of another cosmetic medical practice that he formed in 2022, and including, but not limited to other reputational loss that impeded his future employment in any sector.

The Fourth Circuit recognizes the "plus" requirement where publication of false charges results in the "termination of employment or alteration of legal status." *Sciolino*, 480 F.3d at 646–647. Plaintiff's allegations meet that threshold. The MBP, and in particular Defendant Farrelly and Garland's, sustained refusal to consider exculpatory findings – despite direct submissions from their own monitoring agency – constitutes an unconstitutional deprivation of Plaintiff's property interests, including his DEA licensure, under the Fourteenth Amendment.

C. Plaintiff Suffered Defamation by the Intentional Malicious Actions of Farrelly and Garland

Defendant Christine Farrelly and Troy Garland, acting under color of state law and in their capacities as Executive Director and Probation and Monitoring Officer of the Maryland Board of Physicians (MBP), engaged in a sustained campaign of defamatory conduct against Plaintiff with *actual malice* – that is, with knowledge of falsity or reckless disregard for the truth. See *New York Times Co. v. Sullivan*, 376 U.S. 254, 279–80 (1964); *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968). These actions included not only the initial publication of stigmatizing statements but also the continued dissemination and republication of those falsehoods even after Farrelly and Garland had been placed on direct notice of their inaccuracy by the Board's own internal agents and experts.

Farrelly and Garland knowingly maintained and reaffirmed false charges of opioid addiction and habitual intoxication against Plaintiff in official MBP documents and communications, despite receiving exculpatory reports from Dr. Heidi Mattila and Astrid Richardson-Ashley, both of whom explicitly informed the Board that Plaintiff did not meet criteria for any such diagnosis. These defamatory charges were not passively archived – they were actively publicized on the Board's website, featured prominently on search engine results, and repeatedly conveyed to third parties, including the DEA, hospitals, insurers, investors, prospective employers, and others. Farrelly's failure to amend or retract these publications in the face of exculpatory information constitutes not only gross misconduct but also ongoing defamation. See *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 347 (1974) (holding that a private individual need not prove actual malice unless seeking presumed or punitive damages, but such malice is fatal to qualified immunity).

This pattern of conduct goes well beyond bureaucratic neglect or mere negligence. Rather, it reflects a willful and malicious intent to harm Plaintiff's professional and personal standing. See

Barbre v. Pope, 402 Md. 157, 182 (2007) (actual malice under Maryland law includes conduct with "reckless disregard for the truth"). Farrelly and Garland's conduct was further influenced by an improper and undisclosed financial incentive structure within the MBP – one which rewarded staff, including Farrelly and Garland, based on the quantity and severity of disciplinary actions brought against physicians (and concealed by willful withholding of information from Plaintiff's MPIA request). This created an institutional incentive to "charge stack" or uphold meritless accusations to secure performance bonuses and internal prestige, thus corrupting the adjudicatory process. See *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 886–87 (2009) (holding that due process is violated when a decisionmaker has a significant personal interest that could influence the outcome).

Under Maryland law, defamation occurs when a false and defamatory statement concerning another is communicated to a third party, and the defendant is at fault at least to the level of negligence. *Smith v. Danielczyk*, 400 Md. 98, 115 (2007). Here, Plaintiff has alleged facts far surpassing that threshold, including actual knowledge of falsity and willful republication. Moreover, each time the Board – and specifically Farrelly and Garland – disseminated or failed to correct these charges, a new defamatory act occurred, renewing the statute of limitations. See *Nat'l R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 113 (2002.

As a direct result of Farrelly and Garland's defamatory actions, Plaintiff has suffered the collapse of business opportunities, destruction of professional standing, loss of hospital privileges, rescission of contracts with clients and investors in his $25 million-valued medical software startup, and a continuing inability to obtain DEA licensure. These injuries are not speculative; they are concrete, measurable, and causally tied to the intentional and malicious conduct of Defendants Farrelly and Garland. See *Paul v. Davis*, 424 U.S. 693, 710–12 (1976)

(holding that defamation by a public official may rise to a constitutional violation when coupled with alteration of a legal right or status); *Sciolino v. City of Newport News*, 480 F.3d 642, 646–47 (4th Cir. 2007) (recognizing a due process claim when false information affects future employment or legal standing).

Accordingly, Defendant Farrelly and Garland's conduct falls squarely within the definition of actionable defamation under Maryland State Law.

VI. Defendants Farrelly and Garland's Arguments on Timing and Finality Misstate the Nature of the Ongoing Harm, Issue Preclusion, and Sovereign Immunity

Defendants Farrelly and Garland erroneously frame Plaintiff's claims as relating only to the 2021 final order, then cites numerous non-applicable cases to support this premise which is incorrect from its outset and disputed by the Plaintiff on multiple occasions. This misrepresents the Plaintiff's allegations in an effort to portray them as time-barred. Plaintiff's claim is not based on the 2021 order itself but on MBP and Defendants Farrelly and Garland's refusal to correct, amend, or disavow false records, or enter a new record stating the previous record's inaccuracies. The MBP and Defendants Farrelly and Garland's failure to do this, despite their own internal reporting urging them to do so, has resulted in the Plaintiff experiencing ongoing reputational harm, financial harm, and property harm (including the inability to obtain DEA licensure, loss of business value of $25 million, and lost wages from practicing interventional pain management), through the ongoing public dissemination of false and unadjudicated allegations — after years of Plaintiff's compliance, ongoing absence of any expert diagnosis, and even their own experts advocating for the correction of their false previous and newly published records. This continuing and new publication of false charges as per their own treating experts –

which is undisputed by the MBP and Defendants MBP, Fota, and Noppinger's filings – and thus implicating Farrelly and implied as conceded, constitutes a present, ongoing, and future harm, not a discrete past event as in the North Carolina Board case they cite. *See Jemsek v. Rhyne,* 662 F. App'x 206, 210 (4th Cir. 2016) (where a physician took issue with his 2006 order of suspension and a subsequent 2008 letter – notably different from this case by the absence of any exculpatory findings by agents of that Board for that physician, and where that Board did not concede that their disciplinary processes were tainted by secondary gain through contractual incentives for staff members to ignore, deny, and dismiss exculpatory information).

Defendants, and specifically including Farrelly and Garland's, attempt to dismiss the "continuing violation" doctrine by citing cases irrelevant to the nature of Plaintiff's ongoing injury, despite their last publication being on January 24, 2025 (well within any statute of limitations offered), on a different date, time, and location – or URL, i.e., Uniform Resource Locator (https://www.mbp.state.md.us/BPQAPP/orders/D006326901.245.pdf). *See Wilson v. Garcia,* 471 U.S. 261, 279 (1985) (where the Supreme Court held that § "1983 claims are best characterized as personal injury actions, and hence . . . . [a] 3-year statute of limitations [is] applicable to such actions); *Owens v. Okure,* 488 U.S. 235, 250 (1989) (where the Supreme Court held that "Section 1983 action in state with more than one statute of limitations is governed by residual or general personal injury statute of limitations, rather than statute of limitations for enumerated intentional torts"). Plaintiff's claim falls squarely within the "continuing violation" principles recognized where a defendant's conduct persists into the limitations period or where reputational harm continues due to ongoing dissemination. The MBP and Defendant Farrelly and Garland's ongoing refusal to update or correct the record, despite knowledge of the falsehood, sustains the constitutional injury through malice, i.e. "a reckless

disregard for the truth, that shocks the conscience", invalidating its sovereign immunity. *See Gilliam v. Sealey*, 932 F.3d 216 (4th Cir. 2019) (a criminal case where the court noted that the Government's suppression of material exculpatory evidence violates Due Process Clause and that the "[d]octrine of judicial estoppel must be applied with caution and only in narrowest of circumstances."); *Doe v. United States Dep't of Justice*, 753 F.2d 1092, 1105 (D.C. Cir. 1985) (holding that reputational harm may constitute a continuing violation where dissemination persists at "Doe's allegation that various . . . . officials aided and abetted in the *spreading* of the allegedly defamatory charges against her surely connotes a *continuing* practice of some sort, not a discrete, one-time defamation", and also "[f]or purposes of motion to dismiss for failure to state a claim, factual allegations of complaint must be taken as true, and any ambiguities or doubts concerning sufficiency of the claim must be resolved in favor of pleader.").

VII. MBP, Fota and Noppinger's Conceded Lack of Medical Diagnosis and Expert Evidence Tying Plaintiff to Published Charges Implicates Farrelly and Garland

The previous filings by MBP, Fota, and Noppinger, and now Farrelly and Garland, fail to deny or rebut — which implies that they concede — that:

- No medical or addiction specialist ever diagnosed Plaintiff with opioid use disorder or habitual intoxication, even during five years of intensive monitoring;
- Subsequent exculpatory expert reports discrediting the foundational allegations of the original summary suspension were ignored (e.g., by Dr. Heidi Mattila and forwarded to the board and advocated for by Astrid Richardson-Ashley, Senior Clinical Manager of the Maryland Physician Rehabilitation Program);
- The Board willfully and knowingly ignored exculpatory evidence with reckless disregard for the truth and failed to correct its records despite being on notice of these facts,

behavior which exemplifies a “reckless disregard for the truth” and are acts which “shock the conscience”.

- The Board knowingly and willfully published false statements with full knowledge that they would negatively affect Plaintiff’s DEA licensure, medical insurance participation privileges, and Plaintiff’s medical charting startup (valued at $25 million initially), as these facts were relayed to the Board by their agents including Astrid Richardson-Ashley and Dr. Heidi Mattila.

See United Supreme Council, 33 Degree of Ancient & Accepted Scottish Rite of Freemasonry, Prince Hall Affiliation, S. Jurisdiction of U.S. v. United Supreme Council of Ancient Accepted Scottish Rite for 33 Degree of Freemasonry, S. Jurisdiction, Prince Hall Affiliated, 329 F. Supp. 3d 283 (E.D. Va. 2018) ("Failure to respond to an argument made in a dispositive pleading results in a concession of that claim).

VIII. Defendants' Argument on Lack of Direct "Plus" Impact Misstates the Allegations

Plaintiff clearly alleges that the continued publications by these Defendants, and specifically including Farrelly and Garland, directly impacted his employment, DEA license, hospital affiliations, and medical reputation, all of which are protectable liberty interests under *Paul v. Davis*, 424 U.S. 693 (1976), and its progeny. *Sciolino v. City of Newport News*, 480 F.3d 642, 646 (4th Cir. 2007) (“plus” includes tangible employment consequences).

Furthermore, Defendants, and specifically including Farrelly and Garland, fail to address – and therefore concede – allegations that their acts were part of an institutional pattern tied to improper incentives, including bonuses or job renewals based on initiating, handling, sustaining, and then concealing exculpatory evidence related to disciplinary actions.

IX. Due Process Invalidates the MBP's Incentivized Decision-Making Against Physicians

Plaintiff's unrefuted allegations that MBP's internal compliance personnel, and specifically including Farrelly and Garland – who conduct and oversee investigations, monitoring, and substantially influence adjudications and actions that conceal exculpatory information – are subject to a financial incentive structure tied to the number and severity of disciplinary actions, including suspensions, have been conceded through silence by the MBP, Fota, and Noppinger, and so far, Farrelly and Garland in this litigation. Under *Tumey v. Ohio*, 273 U.S. 510 (1927), and *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009), due process forbids adjudicators from presiding when they have financial interests in the outcome. *Tumey* disallowed judicial convictions by magistrates who gained from them, and *Caperton* extended this to cases where financial entanglement creates a constitutional risk of bias. These holdings compel the conclusion that any bonus-driven disciplinary action by MBP staff—where revenue or personal rewards are tied to the issuance of suspensions or sanctions—irreparably compromises the integrity of the entire process. Such a structure introduces constitutionally impermissible bias, violating the core requirements of due process under the Fourteenth Amendment, and fundamentally taints not only the adjudications themselves but also the legitimacy and objectivity of the subsequent monitoring program. Further, as in the Plaintiff's case, the same financially conflicted staff members directly suppressed exculpatory information, harming the patient under the causes of action previously noted and violating the Plaintiff's due process rights under *Giglio v. United States*, 405 U.S. 150 (1972), which prohibits suppression of material evidence.

X. Defendants Farrelly And Garland's Failure To Produce Mpia Records Supports A Reasonable Inference Of Bad Faith

Plaintiff incorporates by reference Section VI of Plaintiff's Opposition to Defendants' Motion to Dismiss (ECF 21), which demonstrates Defendants' pattern of concealing exculpatory evidence and acting with reckless disregard for the truth, and in particular Defendants Farrelly and Garland, who as Executive Director and Probation and Monitoring Officer, respectively, have control of the pertinent records, as in the Plaintiff's case. As further evidenced by the refusal to comply with Plaintiff's Maryland Public Information Act ("MPIA") requests – denying access to critical records regarding internal communications, performance metrics, and financial incentives tied to disciplinary actions – the MBP's, and Defendants Farrelly and Garland's conduct supports a reasonable inference of bad faith.

The Board, and specifically Farrelly and Garland's, withholding of these records, particularly after direct appeals to the Maryland Office of the Public Access Ombudsman (Case No. 1308-01-25), underscores their deliberate effort to shield misconduct, including:

- Financial incentives for staff to pursue unjust disciplinary actions (as alleged in ECF 1, 23–25);
- Farrelly and Garland's personal involvement in suppressing exculpatory evidence (e.g., emails from Astrid Richardson-Ashley and Dr. Heidi Mattila); and
- Ongoing violations by republishing false charges in the 2025 termination order.

This Court may properly infer bad faith under *United States v. Stevens*, 994 So. 2d 1062, 1067 (Fla. 2008) ("the risk to be perceived defines the duty that must be undertaken"), and *Counterman v. Colorado*, 143 S. Ct. 2106, 2122 (2023) (recklessness constitutes "morally culpable conduct").

XI. This Court Has Subject Matter Jurisdiction And Supplemental Jurisdiction, And Venue Is Proper Under Federal Law

Jurisdiction is proper under 28 U.S.C. §§ 1331 and 1343 because Plaintiff asserts claims under 42 U.S.C. § 1983 and the Fourteenth Amendment of the U.S. Constitution. Jurisdiction is also proper under 28 U.S.C. § 1332 because the parties are diverse: Plaintiff is a resident of the District of Columbia, while all Defendants are residents of and perform their official duties within Maryland. The amount in controversy exceeds $30 million, far surpassing the $75,000 threshold required for diversity jurisdiction. This Court also has Supplemental Jurisdiction under 28 U.S.C § 1367 over state law defamation claims as the Federal Questions predominate.

Venue is proper under 28 U.S.C. § 1391(b) because: (1) All relevant events occurred within the District of Maryland; (2) Defendants – including the MBP, Farrelly, Garland, Fota, Noppinger, and likely nearly if not all of the John and Jane Doe members of the Board – are headquartered and perform official functions within Maryland; and (3) The alleged violations of constitutional rights arose in this District and continue to cause harm to Plaintiff who resides in the District of Columbia but worked and practiced under the MBP's jurisdiction in Maryland.

As Plaintiff is seeking prospective relief in addition to damages—including correction of public records and cessation of false reporting—such relief falls squarely within the jurisdiction of this Court under *Ex parte Young*, 209 U.S. 123 (1908).

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that this Court:

1. Deny Defendant Christine Farrelly and Troy Garland's Motion to Dismiss in its entirety;

2. Permit discovery to proceed on all claims, including violations of the Due Process Clause under the U.S. Constitution and 42 U.S.C. § 1983, state law defamation, and related claims concerning reputational, professional, and economic injuries;
3. Permit prospective relief against Defendants Farrelly and Garland in their official capacity pursuant to Ex parte Young, including but not limited to the cessation of ongoing publication of false and stigmatizing information, correction or retraction of inaccurate disciplinary records, and implementation of safeguards to prevent future constitutional harm;
4. Recognize Plaintiff's alleged harms as extending beyond reputational injury to include concrete economic losses, including but not limited to lost physician employment opportunities, lost business relationships for his startup and for medical practice, inability to retain investors and clients for Plaintiff's medical technology venture, and inability to obtain licensure and DEA registration due to the continued dissemination of false information;
5. Find that Plaintiff has plausibly alleged personal involvement by Defendants Farrelly and Garland sufficient to support § 1983 liability at the pleading stage, and that Plaintiff is entitled to discovery on the basis of well-pled allegations that Defendant knowingly and willfully contributed to the ongoing constitutional violations and suppression of exculpatory evidence, in part because such involvement has not been denied by any of the defendants, including Farrelly, Fota, Garland, Noppinger, the MBP, and the John and Jane Doe Members of the Board;
6. Grant such other and further relief as this Court deems just and proper, including any appropriate costs, fees, or equitable remedies.

Respectfully submitted,

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