

The Federation of State Boards of Physical Therapy

Basis for Disciplinary Action Definitions and Descriptions

**A tool to assist physical therapy regulatory bodies categorize
basis (or bases) for disciplinary action**



Version 4.0: October 2015

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Background and Purpose

The purpose of the Federation of State Boards of Physical Therapy Examination, Licensure and Disciplinary Database (ELDD) is multi-fold. Most importantly, it serves as an alert mechanism for physical therapy licensing boards. If a licensee holds multiple licenses and gets disciplined in one jurisdiction, the FSBPT ELDD will alert the other jurisdictions in which the individual is licensed. This prevents sanctioned individuals from moving across state lines to avoid the effects of disciplinary action. This alert system is critical for public protection. Beyond this, however, the database is a rich source of data that can help licensing boards formulate decisions based on evidence.

In the early 2000's when the FSBPT first planned its disciplinary database, the federal government was implementing the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB). Since all jurisdictions were required to report to the NPDB-HIPDB, the decision was made to use the same Basis for Action Categories for the Federation's database as the NPDB-HIPDB. This was to avoid duplication and keep things as simple as possible for the FSBPT members filling out NPDB-HIPDB reports.

Effective May 6, 2013, the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB) merged into one Data Bank: the NPDB.

Unfortunately there were no specific definitions for these Basis for Action Categories and in the intervening years, NPDB has not developed definitions. Without specific definitions for the categories, it is impossible to determine when to use one category versus another. As a result every jurisdiction categorizes the data differently. Without consistency, the data has limited, if any use.

To help solve this problem, the FSBPT Board of Directors appointed the Disciplinary Categories Task Force to develop definitions and guidelines for how and when to use the categories. The task force was represented by four different jurisdictions as well as a board attorney. Over the course of several months, they defined and refined the categories. They used sample cases to test their definitions. This document is the result of this group's efforts.

The Federation encourages anyone reporting physical therapy disciplinary actions to use these definitions. This will establish a level of consistency that will allow the data to be used to determine trends, focus on prevention and evaluate the effectiveness of remedial actions.

FSBPT welcomes questions and comments about this document. We hope to continually update this document to reflect the issues that jurisdictions face in dealing with disciplinary actions of licensees.

<u>Code</u>	<u>Description</u>	<u>Definition</u>	<u>Explanations and Examples</u> *
Non-Compliance with Federal, State or Contractual Requirements			
Unlicensed Practice, Failure to Report, Failure to comply with Continuing Competence Requirements, Practicing Beyond the Scope or Practice			
39	License Revocation, Suspension or Other Disciplinary Action Taken by a Federal, State or Local Licensing Authority	A licensee/certificant has had final disciplinary action taken by another authority and the grounds for discipline are based on this action by another authority.	Use this category when a licensee is licensed in another jurisdiction and has final disciplinary action by this authority; do not use this category for your jurisdiction's own disciplinary action.
A1	Failure to Meet the Initial Requirements of a License	Use this category only if your jurisdiction has the ability to take disciplinary action on an applicant.	Most jurisdictions do not allow action on an unlicensed individual such as an applicant. However, a few jurisdictions allow the Board to discipline an applicant. Use this code if your jurisdiction has this authority and uses it to discipline an applicant.
A2	Failure to Comply With Continuing Education or Competency Requirements	A licensee/certificant does not meet the continuing education or competency requirements for renewal or reinstatement.	If a licensee's stated number of hours or credits completed did not meet state requirements, use this category. If the licensee lied about meeting the requirements, then also use E3 Filing False Reports or Falsifying Records .
A3	Failure to Meet Licensing Board Reporting Requirements	A licensee/certificant does not report information that is required to be reported by law.	This includes criminal convictions, loss of job due to unprofessional conduct, disciplinary action in another jurisdiction, change of address etc. Use this for failure to report any renewal and reinstatement requirements. Use this also when a licensee fails to report another health care professional when required by mandatory reporting requirements. Do not use for failure to meet continuing competency requirements (use A2 Failure to Comply With Continuing Education or Competency Requirements) or for someone obtaining a license but failing to disclose required information on application for licensure use E4 Fraud Deceit or Material Omission in obtaining a license or Credentials .

* Note: The Explanations and Examples column provides some sample basis for actions that would be appropriate for this category. However, these examples are not an attempt to be all-inclusive but to simply offer a few examples.

Code	Description	Definition	Explanations and Examples*
A4	Practicing Without a Valid License	Do not use. Use 25 Practicing Without a License or 24 Practicing with an Expired License	
A5	Violation of or Failure to Comply With Licensing Board Order	The licensee/certificant fails to comply with a specific Board order.	A licensee does not meet the terms of a probationary license.
23	Failure to Cooperate with a Board Investigation	Interfering with an investigation or disciplinary proceeding by failure to cooperate, by willful misrepresentation of facts or by attempting to prevent a witness from providing evidence in a disciplinary proceeding or any legal action.	This could both refer to a licensee who is being investigated or to a licensee who is a witness to an investigation and refuses to cooperate.
24	Practicing With an Expired License	A licensee/certificant fails to renew and continues to practice as a physical therapist or working as a physical therapist assistant.	This applies to the many licensees who forget to renew their license and continue to practice or who simply fails to renew. Do not use for a new graduate who fails the exam and continues to practice under a temporary license which expired on getting exam results. Do not use for someone who has had their license revoked and continues to practice – use 25 practicing without a license .
25	Practicing Without a License	Practicing as a physical therapist or working as a physical therapist assistant without the required license.	This also includes an applicant or licensee who has passed the exam but does not actually have his/her license “in-hand”. It also applies to someone who continues to practice after a temporary license or permit has expired. Except as stated, do not use for someone whose license has expired – use 24 Practicing with an Expired License .
29	Practicing Beyond the Scope of Practice	A licensee or certificant provides a service under his/her licensed title that is not part of his/her licensed scope or within his or her level of skill or training.	Not complying with direct access restrictions including evaluation/treatment without a referral when required. Performing practice interventions, whether advanced or not, without required certification or training fit into this category. Also use this category when a licensee works without adequate/required supervision. Use F6 Substandard or Inadequate Care for incompetence issues and 13 Negligence for not exercising reasonable judgment.

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<u>Code</u>	<u>Description</u>	<u>Definition</u>	<u>Explanations and Examples</u> *
31	Failure to Comply With Health and Safety Requirements	A licensee or certificant does not comply with federal, state, local or institutional safety requirements or state health codes.	Use for violations of a practitioner not meeting required health tests or inoculations. For violation of infection control, sterile technique, and isolation requirements, use 17 Inadequate or Improper Infection Control Practices .
35	Drug Screening Violation	A licensee fails a drug screening test.	A licensee is required by the Board to undergo drug screens and fails a drug screen or fails to comply with the order for the drug screen; Also use this category if a licensee fails a drug test for employment and is then reported to the Board.
36	Violation of Federal or State Tax Code	Failure to meet federal or state tax code responsibilities	Use with appropriate criminal conviction or adjudication code if applicable
37	Failure to Pay Child Support/Delinquent Child Support	Failure to meet child support responsibilities	
44	Default on Health Education Loan or Scholarship Obligations	Failure to meet Health Education Loan or Scholarship Obligations	Some states have this requirement and others do not - use only if your state has this requirement.
45	Failure to Maintain Records or Provide Medical, Financial or Other Required Information	Failure to maintain records or not providing records when requested or authorized by the patient; failure to provide explanation of charges.	Failure to provide information on charges and interventions, not meeting record retention requirements and not providing medical records to patients or others at the patient's request.
50	Failure to Maintain Adequate or Accurate Records	A licensee or certificant does not meet documentation requirements, including maintaining patient care records.	Inadequate documentation of treatment within the medical record.

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<u>Code</u>	<u>Description</u>	<u>Definition</u>	<u>Explanations and Examples</u> *
84	Violation of State Health Code	Failure of a facility to meet state health codes.	Do not use for practioner violation or infection control violation. Use 31 Failure to Comply With Health and Safety Requirements
A6	Violation of Federal or State Statutes, Regulations or Rules	It is determined that the licensee/certificant has not met alimony obligations or has failed to report abuse when mandatory or some other federal or state statute or regulation.	Use when a licensee does not meet alimony responsibilities, failure to report abuse or other federal or state requirement. Do not use this category to include violations of the state physical therapy practice act. Do not use for failure to meet child support – use 37 Failure to Pay Child Support/Delinquent Child Support.

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Code	Description	Definition	Explanations and Examples*
Criminal Conviction or Adjudication			
B1	Nolo Contendere Plea	A criminal case in which the licensee is convicted based on a “nolo contendere” plea.	<p>Nolo Contendere Plea Definition: a plea where the defendant neither admits nor disputes a charge, serving as an alternative to a pleading of guilty or not guilty. A no contest plea, while not technically a guilty plea, has the same immediate effect as a guilty plea, and is often offered as a part of a plea bargain.</p> <p>Do not use with criminal conviction – use one or the other.</p> <p>Use this code along with the appropriate code to describe what the conviction was for if there is a code. If there is no appropriate code, describe what the criminal conviction was in the narrative.</p>
18	Deferred Adjudication	A criminal case in which the licensee avoids criminal conviction if he or she meets certain probationary requirements.	<p>Deferred adjudication involves probation, treatment programs, and/or some type of community supervision. If all the conditions of probation are met for the allotted time handed down by the court, the offender can avoid a formal sentence, and in some jurisdictions, no permanent record of the crime will be made. Typically, at the end of the probationary period the charge will be dismissed and no record of conviction will result. Deferred adjudication may be available to eligible defendants upon recommendation by the prosecutor or at the discretion of the court.</p> <p>Use this code along with the appropriate code to describe what the probation was for. If there is no appropriate code, describe what the criminal action was in the narrative.</p>

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<u>Code</u>	<u>Description</u>	<u>Definition</u>	<u>Explanations and Examples</u>*
19	Criminal Conviction	The licensee/certificant is convicted of a felony or misdemeanor.	Use this along with the appropriate code to describe what the conviction was for if there is a code. If there is no appropriate code, describe what the criminal conviction was in the narrative.
11	Diverted Conviction	A criminal case in which the licensee avoids criminal conviction if he or she successfully completes a diversion program.	<p>Diverted Convictions typically involve participating in a treatment or rehabilitation program. Criminal charges are normally dropped when the diversion program is completed successfully.</p> <p>Use this code along with the appropriate code to describe what the criminal action was. If there is no appropriate code, describe what the criminal action was in the narrative.</p>

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<u>Code</u>	<u>Description</u>	<u>Definition</u>	<u>Explanations and Examples</u> *
Confidentiality, Consent or Disclosure Violations			
C1	Failure to Obtain Informed Consent	A licensee/certificant does not meet informed consent requirements.	This includes not obtaining the permission of the patient to evaluate and treat; it also includes obtaining parental permission for a minor. It includes requirements to explain procedures and possible complications.
C2	Failure to Comply With Patient Consultation Requirements	A licensee/certificant does not meet requirements for consultation with other health care providers including failure to refer when appropriate.	A licensee does not consult with or refer to an appropriate practitioner when care is beyond the current practitioner's level of training, skill or expertise or the patient/client needs care other than that which the physical therapist can provide. In addition, use this category when a licensee fails to keep a referring source informed of the patient's progress. Use this category in direct access situation where the licensee fails to refer appropriately. Do not use for all other direct access violations– Use 29 Practicing Beyond the Scope of Practice . Use E2 Providing or Ordering Unnecessary Tests or Services if the licensee continues to treat a patient that is not making required progress. This category is not related to informed consent or consultation with the patient – Use C1 Failure to Obtain Informed Consent for informed consent.
C3	Breach of Confidentiality	A licensee/registrant releases or obtains patient information without appropriate authorization.	

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<u>Code</u>	<u>Description</u>	<u>Definition</u>	<u>Explanations and Examples</u> *
Misconduct or Abuse			
14	Patient Abuse	The licensee or certificant responsible for a patient's welfare intentionally inflicts, or allows to be inflicted, physical or mental injury.	Do not use for sexual abuse or sexual assault.
D1	Sexual Misconduct	The licensee/certificant establishes a sexual relationship with a patient or former patient. This can also include employees and co-workers if so defined in the state law.	This includes sexual harassment.
D2	Non-Sexual Dual Relationship or Boundary Violation	The licensee/certificant establishes a non-sexual relationship with a patient or former patient that is beyond the patient/client-practitioner relationship.	Going to a movie with a patient, selling a car to a patient, dining with a patient, borrowing money from a patient are among behaviors which have been termed "boundary violations" Developing a non-sexual relationship with a patient's significant other fits in this category.
71	Conflict of Interest	A licensee/certificant does not disclose information that may present a conflict.	Non-disclosure of ownership; not providing freedom of choice.
D3	Exploiting a Patient for Financial Gain	A licensee/certificant uses his/her professional relationship with the patient to gain financially from the relationship beyond that which is reasonable for the provision of treatment.	The therapist takes advantage of the patient relationship by selling products that are not tied to the treatment or are not necessarily needed or could be obtained for a lower price; getting patients involved in business pyramids. Do not use this code for excessive or fraudulent billing - use 55 Improper or Abusive Billing Practices .

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<u>Code</u>	<u>Description</u>	<u>Definition</u>	<u>Explanations and Examples</u> *
16	Misappropriation of Patient Property or Other Property	A licensee or registrant uses a patient's or coworker's property or the property of a facility without permission for his or her own use.	Although misappropriation implies that the practitioner has been given the authority to appropriately administer a patient's property and then misappropriates it, use this category for stealing from a patient as well. Also use 19 Criminal Conviction if there has been a criminal conviction. Do not use for stealing narcotics from a patient - use H6 Diversion of Controlled Substances .
D4	Abusive Conduct Toward Staff	Use this for any kind of abuse towards staff including physical or mental abuse.	For sexual abuse, use D1 Sexual Misconduct .
D5	Disruptive Conduct	Use this category only if your jurisdiction has codes specifically related to disruptive conduct.	Do not use unless you include disruptive conduct within your grounds for discipline. Instead use patient abuse or another appropriate category.
D6	Conduct Evidencing Moral Unfitness		Do not use.
D7	Conduct Evidencing Ethical Unfitness	Violation of an ethical code of conduct	Use this only if you include a professional code of ethics within your grounds for discipline and there is no better code available to describe the ethical violation.
D8	Other Unprofessional Conduct, Specify _____	Do not use unless there is no other appropriate category.	

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<u>Code</u>	<u>Description</u>	<u>Definition</u>	<u>Explanations and Examples</u> *
Fraud, Deception, or Misrepresentation			
E1	Insurance Fraud (Medicare, Medicaid or Other Insurance)	A licensee/certificant has been convicted specifically of Insurance fraud - Medicare, Medicaid or other.	Because this is a criminal conviction, always use 19 Criminal Conviction as secondary.
55	Improper or Abusive Billing Practices	A licensee/certificant does not bill correctly i.e. improper codes, stacking codes etc.	The therapist is unknowingly using incorrect codes; Charging unreasonable fees or intentionally overbilling; use this code when a licensee bills improperly but it is not necessarily Fraud. If there is a conviction for insurance fraud, use E1 Insurance Fraud (Medicare, Medicaid or Other Insurance) .
56	Submitting False Claims	A licensee/certificant intentionally submits claims or bills for interventions that did not occur or do not reflect actual treatment provided.	If there is a conviction for insurance fraud, use E1 Insurance Fraud (Medicare, Medicaid or Other Insurance) . Use this code for intentionally billing for interventions that did not occur. Use E3 Filing False Reports or Falsifying Records for documenting treatments that did not occur or falsifying patient records.
E2	Providing or Ordering Unnecessary Tests or Services	A licensee/certificant provides unnecessary Tests and services.	Use this for overutilization or any treatment that is unnecessary or not needed.
E3	Filing False Reports or Falsifying Records	A licensee/certificant fabricates patient or employee records.	If a licensee documents treatments that did not occur. This could also include time sheets or employment records if the board has jurisdiction over the authenticity of these reports. Also use this in conjunction with A2 Failure to Comply With Continuing Education or Competency Requirements for falsifying practitioner continuing education or competence records. Use 56 Submitting False Claims for intentionally billing for treatment that did not occur.

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<u>Code</u>	<u>Description</u>	<u>Definition</u>	<u>Explanations and Examples</u> *
E4	Fraud, Deceit or Material Omission in Obtaining License or Credentials	A prospective licensee/certificant obtains a license but fails to disclose or lies on the application for licensure or cheats/trafficks in items on exams required for licensure;	Use this when a prospective licensee who actually obtains a license fails to report a criminal conviction or otherwise lies or does not disclose information on the initial application. Also use it for cheating or trafficking items in the NPTE, PEAT, jurisprudence and/or iBT-TOEFL.
81	Misrepresentation of Credentials	A licensee/certificant or unlicensed individual did not properly identify himself or herself with respect to education, training and titles.	This includes the use of name tags, posting of licenses and use of credentials after the licensee's name as required by law. It should also be used for someone who uses a title prior to being licensed. If the person is practicing without being licensed, use A4 Practicing Without a Valid License . Also appropriate if a provider misrepresents himself as a "participating provider" in an insurance company.
E5	Misleading, False or Deceptive Advertising or Marketing	A licensee/certificant uses misleading, false or deceptive advertising or marketing related to treatment.	Use this for advertising that is misleading or false. Use 81 Misrepresentation of Credentials to identify someone who does not correctly identify their credentials.
E6	Failure to Disclose	Failure to disclose information that is required.	Use when licensee/certificant/ applicant does not disclose items such as revenues generated from selling equipment, financial relationships, etc.
5	Fraud - Unspecified	A licensee/certificant misrepresents facts or information with intent to deceive.	Use only if there is no other category that fits. Do not use for 55 Improper or Abusive Billing Practices , 56 Submitting False Claims , or E1 Insurance Fraud (Medicare, Medicaid or Other Insurance) .

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<u>Code</u>	<u>Description</u>	<u>Definition</u>	<u>Explanations and Examples</u> *
Unsafe or Substandard Care			
F1	Immediate Threat to Health or Safety	A licensee/certificant presents an immediate risk and the Board uses emergency measures to remove a practitioner from practice.	If there is an emergency summary suspension of a license, use this category. Additionally, include the code that best describes why it is felt the licensee is an immediate threat to health or safety.
F2	Unable to Practice Safely by Reason of Alcohol or Other Substance Abuse	Self Explanatory	
F3	Unable to Practice Safely by Reason of Psychological Impairment or Mental Disorder	Self Explanatory	
F4	Unable to Practice Safely by Reason of Physical Illness or Impairment	Self Explanatory	
F5	Unable to Practice Safely	Not applicable	Use F1 Immediate Threat to Health or Safety, F2 Unable to practice Safely by Reason of Alcohol or other Substance Abuse, F3 Unable to practice Safety by Reason of Psychological Impairment or Mental Disorder or F4 Unable to Practice Safely by Reason of Physical Illness or Impairment or Mental Disorder.
F6	Substandard or Inadequate Care	Use this code when a licensee does not meet clinical standards of practice and is unable to practice competently.	Do not use this code for someone who is practicing beyond their level of training. Instead use 29 Practicing Beyond the Scope of Practice.
F7	Substandard or Inadequate Skill Level	Not applicable	Use 29 Practicing Beyond the Scope of Practice if someone is practicing beyond their level of skill or training; Use F6 Substandard or Inadequate Care for incompetence issues and 13 Negligence for not exercising reasonable judgment.

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<u>Code</u>	<u>Description</u>	<u>Definition</u>	<u>Explanations and Examples</u> *
F8	Failure to Consult or Delay in Seeking Consultation With Supervisor/Proctor	Use for any provider that works under supervision for failing to consult with the supervising therapist.	Use if a licensee is under the supervision of another licensee (such as a PTA, someone with a temporary license, someone in a supervised clinical practice) fails to consult with a supervisor. If a licensee/ certificant is under restriction that requires supervision, use this code as well as A5 Failure to Meet a Board Order .
11	Incompetence	Not applicable	Use either F1 Immediate Threat to Health or Safety , or F6 Substandard or Inadequate Care for issues of incompetence.
12	Malpractice	Not applicable	Report the actual basis of the malpractice versus using this code.
13	Negligence	A licensee/certificant fails to exercise the skill, care, and learning expected of a reasonably prudent health care provider.	The clinician may be competent but is careless or reckless and does not exercise reasonable judgment in delivering reasonably prudent patient care. If it is more of a competence issue, use F6 Substandard or Inadequate Care .
15	Patient Neglect	This is a form of negligence.	Use 13 Negligence .
17	Inadequate or Improper Infection Control Practices	Failure to conform to recognized standards for infection control.	This would include violations of infection control, sterile technique and isolation requirements. For failure to comply with federal, state, local or institutional safety requirements or state health codes, use 31 Failure to Comply With Health and Safety Requirements .
F9	Patient Abandonment	Termination without adequate notice of the professional relationship between a health care provider and a patient/client at a time when the patient is in need of further care.	The licensee does not provide for continuity of care, does not show up for work without making arrangements, suddenly discharges a patient without appropriate referrals, etc.
FA	Inappropriate Refusal to Treat	Refusal to treat a patient due to religious, moral or other reasons.	Refusing to treat a patient with a communicable disease such as HIV, Hepatitis C, etc.
53	Failure to Provide Medically Reasonable and/or Necessary Items or Services	This is a form of negligence.	Use 13 Negligence .

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Improper Supervision or Allowing Unlicensed practice			
G1	Improper or Inadequate Supervision or Delegation	Failure to supervise assistive personnel properly or adequately.	This category is for the supervisor. Do not use this category for an assistant who worked without supervision. Instead use 29 Practicing Beyond the Scope of Practice.
G2	Allowing or Aiding Unlicensed Practice	A licensee/certificant allows or helps someone practice without a license.	A PT employer fails to make sure someone is licensed or allows someone with PT training who is not yet licensed to practice.

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Improper Prescribing, Dispensing, Administering Medication/Drug Violation			
H1	Narcotics Violation or Other Violation of Drug Statutes	A licensee/certificant has a narcotics or drug violation regardless of conviction.	If there is a conviction, also use 19 Criminal Conviction .
H2	Unauthorized Prescribing of Medication	A licensee/certificant alters a prescription or attempts to prescribe medication.	Forging prescriptions.
H3	Unauthorized Dispensing of Medication	A licensee/certificant dispenses drugs without the appropriate authorization.	Failure to obtain authorization or prescription to dispense medication where required by law/regulation.
H4	Unauthorized Administration of Medication	A licensee/certificant administers drugs without the appropriate prescription.	Failure to obtain authorization or prescription to administer medication where required by law/regulation.
H5	Error in Prescribing, Dispensing or Administering Medication	A licensee/certificant makes an error in prescribing, dispensing or administering medications that the licensee is allowed to prescribe, dispense or administer.	Includes failure to follow appropriate procedures with medications such as giving the wrong medication, improper storage or handling, giving medication to the wrong patient, and dosage or drug handling errors. Examples of common drugs used in physical therapy treatment: Dexamethasone, Lidocaine, medications for Wound Care/Integumentary Management, etc.
H6	Diversion of Controlled Substance	A licensee/certificant takes a patient's or someone else's drugs.	

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<u>Code</u>	<u>Description</u>	<u>Definition</u>	<u>Explanations and Examples</u> *
Other			
99	Other - Not Classified, Specify	Not applicable in most cases.	Do not use.

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