HAWAII MEDICAL BOARD

Professional and Vocational Licensing Division Department of Commerce and Consumer Affairs State of Hawaii

MINUTES OF MEETING

	The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Section 92-7(b), Hawaii Revised Statutes ("HRS").			
Date:	Thursday, September 10, 2015			
<u>Time:</u>	1:00 p.m.			
<u>Place:</u>	King Kalakaua Conference Room King Kalakaua Building 335 Merchant Street, 1 st Floor Honolulu, HI 96813			
<u>Present:</u>	Niraj S. Desai, M.D., Chairperson, Kauai Member Sharon "Shay" Bintliff, M.D., Vice-Chairperson, Hawaii Member Gerard K. Akaka, M.D., Oahu Member Maria Chun, Ph.D, Public Member Darren K. Egami, M.D., Maui Member Jone Geimer-Flanders, D.O., Oahu Member Peter Halford, M.D., Oahu Member Peter Holt, M.D., Oahu Member Thomas S. Kosasa, M.D., Oahu Member Palasi Puletasi, Public Member Karen E. Sept, D.O., Oahu Member Shari Wong, Deputy Attorney General ("DAG") Ahlani K. Quiogue, Executive Officer Wilma Balon, Secretary			
<u>Guests:</u>	Robert MacArthur, M.D., Applicant Lei Fukumura, Special Deputy Attorney General Kelley Withy, M.D., Ph.D., University of Hawaii John A. Burns School of Medicine			
<u>Call to</u> Order:	The meeting was called to order at 1:03 p.m. at which time quorum was established.			
<u>Additions/</u> <u>Revisions to</u> <u>Agenda</u> :	 It was moved by Chair Desai, seconded by Dr. Bintliff, and unanimously carried to revise the agenda by adding the following under New Business: b. <u>Federation of State Medical Boards ("FSMB"), Board Liaison</u> <u>Representative Report</u> 			
Adjudicatory Matters:	Chair Desai called for a recess from the meeting at 1:04 p.m. to discuss and deliberate on the following adjudicatory matters pursuant to HRS Chapter 91.			

a. <u>In the Matter of the Osteopathic Physician and Surgeon's License</u> of Fred L. Goldblatt, D.O.; MED 2015-59-L

After discussion, it was moved by Dr. Egami, seconded by Dr. Kosasa, and unanimously carried to accept the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order.

b. In the Matter of the License to Practice Medicine of John R. Hannon, M.D.; MED 2015-73-L

Dr. Halford entered the meeting room at 1:07 p.m.

After discussion, it was moved by Dr. Akaka, seconded by Dr. Holt, and unanimously carried to accept the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order.

c. <u>In the Matter of the License to Practice of Medicine of Paul</u> <u>Michael Loftus, M.D.; MED-2015-65-L</u>

After discussion, it was moved by Dr. Geimer-Flanders, seconded by Dr. Egami, and unanimously carried to accept the Settlement Agreement After Filing of Petition for Disciplinary Action and Board's Final Order.

Following the Board's review, deliberation and decision in this matter pursuant to Chapter 91, Hawaii Revised Statutes ("HRS"), Chair Desai announced that the Board reconvene to its regular Chapter 92, HRS, meeting at 1:09 p.m.

It was moved by Dr. Kosasa, seconded by Dr. Akaka, and unanimously carried to enter into executive session at 1:09 p.m. pursuant to Section 92-5(a)(1), HRS, to consider and evaluate personal information relating to individuals applying for professional licenses cited in Section 26-9, HRS, and pursuant to Section 92-5(a)(4), HRS, to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities.

Applications for b. Applications:

License/ Certification:

Robert J. MacArthur, M.D.

It was moved by Dr. Holt, seconded by Dr. Bintliff, and unanimously carried to return to the open meeting at 2:28 p.m.

Robert J. MacArthur, M.D.

After due consideration of the information received, and Dr. MacArthur's oral testimony, it was moved by Chair Desai, seconded by Dr. Sept, and carried by a majority, with Dr. Akaka opposing, and Mr. Puletasi abstaining, to deny Dr. MacArthur's application, basing its decision on the

following grounds of the HRS and Hawaii Administrative Rules ("HAR"), which find factual support in the records and files of Dr. McArthur's application:				
HRS § 453-8(a)(7):	Professional misconduct, hazardous negligence causing bodily injury to another, or manifest incapacity in the practice of medicine or surgery;			
HRS § 453-8(a)(8):	Incompetence or multiple instances of negligence, including but not limited to the consistent use of medical service, which is inappropriate or unnecessary;			
HRS § 453-8(a)(9):	Conduct or practice contrary to recognized standards of ethics of the medical profession as adopted by the Hawaii Medical Association, the American Medical Association, the Hawaii Association of Osteopathic Physicians and Surgeons, or the American Osteopathic Association;			
HRS § 453-8(a)(11):	Revocation, suspension, or other disciplinary action by another state or federal agency of a license, certificate, or medical privilege for reasons as provided in this section;			
HAR § 16-85-107(a)(1):	When the applicant has committed any of the acts for which a license or certificate may be suspended or revoked under sections 453-8 or 463E-6, HRS, or section 16-85-112; and			
HAR § 16-85-107(a)(3):	If the applicant has had disciplinary action taken by any jurisdiction, including any federal or state regulatory body.			

The Board considers Dr. MacArthur's conduct to be extremely concerning and contrary to the recognized standards of medical ethics as adopted by the American Medical Association ("AMA"). Specifically, the Board determined that Dr. MacArthur failed to uphold the following AMA Principles of Medical Ethics:

> II. A physician shall uphold the standards of professionalism, be honest in all professional interactions, and strive to report physicians deficient in character or competence, or engaging in fraud or deception, to appropriate entities;

- III. A physician shall respect the law and also recognize a responsibility to seek changes in those requirements that are contrary to the best interests of the patient; and
- VIII. A physician shall, while caring for a patient, regard responsibility to the patient as paramount.

Dr. MacArthur asked if he is prohibited from applying a medical license and whether he may apply following the completion of his California probation.

Executive Officer Quiogue informed Dr. MacArthur that he may apply for a license at any time.

Dr. MacArthur left the meeting room at 2:30 p.m.

The following agenda item was taken out of order.

New Business: a. Physician Workforce Assessment Report

Kelley Withy, M.D., PhD, University of Hawaii John A. Burns School of Medicine, appeared before the Board to brief it on the Hawaii Physician Workforce Assessment Report.

Dr. Withy explained that the following statistics were collected from 95% of practicing physicians. The statistics are as follows:

- ≥9,100 physicians licensed in Hawaii
- 3,596 practicing non-military physicians in Hawaii;
- 2,806 total Full Time Equivalents (FTEs) of physicians practicing in Hawaii or caring for Hawaii patients;
- 711 of Hawaii physicians are 65 years old or older in 2015;
- 31% female, 69 % male;
- 58% of physicians work in practices of 5 or less;
- Only 60 physicians report participating in telehealth (2%);
- 85% of physicians report taking new patients;
- 70% of physicians report taking new Medicare patients; and
- 67% of physicians report taking new Medicaid/Quest patients.

Dr. Withy reported on the statewide physician workforce statistics and trends, and explained the need to address the growing physician shortage in Hawaii and improve the supply and demand of physicians.

Dr. Withy informed the Board that they are looking in to expanding monitoring to include physician assistants and nurse practitioners while utilizing the new projection model.

	Executive Officer Quiogue reminded Dr. Withy that because physician assistants do not renew online (because of required documentation at the time of renewal), physician assistants will not be able to participate in the workforce assessment survey.
	Chair Desai expressed his concerns that the statistics collected by the FSMB show that there are more licensed doctors per capita in Hawaii; however, there continues to be a shortage of physicians.
	Dr. Withy explained that some of the reasons for the shortage is that a majority of Hawaii-licensed physicians are military physicians or practice out-of-state.
	Dr. Geimer-Flanders stated that the information collected is compulsory information, and is not necessarily accurate.
	Chair Desai thanked Dr. Withy for appearing before the Board and excused her from the meeting room at 2:44 p.m.
Approval of the August 13, 2015 Minutes:	It was moved by Dr. Holt, seconded by Dr. Egami, and unanimously carried to approve the minutes of the August 13, 2015 meeting with the following corrections:
	On page 1, under <u>Approval of the July 9, 2015 Minutes</u> , it should read as follows:
	"It was moved by Chair Desai , seconded by Dr. Bintliff, and unanimously carried to approve the minutes of the regular session meeting as circulated, and to approve the minutes of the executive session with the following amendments:"
	On page 8, under <u>New Business</u> : a. Legislation, the fourth paragraph, should read as follows:
	"Members indicated that they believe S.1778 / HR3081 would significantly undermine their ability to protect the people of Hawaii and could compromise patient safety by making it less likely that improper or unprofessional care is identified, reported to the appropriate state medical board, and thoroughly investigated and prosecuted."
	It was moved by Dr. Holt, seconded by Dr. Egami, and unanimously carried to approve the executive minutes of the August 13, 2015 meeting with the following corrections:
	On page 2, under the application of Jyothi Gunta, M.D., the fourth paragraph, third sentence, should read as follows:
	"residency program from July 2013"

	On page 5, under the application of Jyothi Gunta, M.D., the seventh paragraph, should read as follows:			
	"graduated from internship, which indicates"			
Applications for License/	a. <u>Ratifications:</u>			
Certification:	(i) List			
	It was moved by Dr. Bintliff, seconded by Dr. Geimer-Flanders and unanimously carried to ratify the attached lists of individuals for licensure or certification.			
	It was moved by Dr. Egami, seconded by Dr. Akaka, and unanimously carried to enter into executive session at 2:48 p.m. pursuant to Section 92-5(a)(1), HRS, to consider and evaluate personal information relating to individuals applying for professional licenses cited in Section 26-9, HRS, and pursuant to Section 92-5(a)(4), HRS, to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities.			
Applications for License/	b. <u>Applications:</u>			
<u>Certification:</u>	Alexei Zhadkevich, M.D. Neil M. Barth, M.D. Anita M. Damodaran, M.D. Carrye L. Daum, M.D. Mitchell T. Hamele, M.D. Derek R. Illastron, M.D. Greta M. Ivers, M.D. Christopher J. Morgan, M.D. Otoniel D. Puerto, M.D. Peter A. Sim, M.D. Khaled A. Sorour, M.D. Martin Urban, M.D. Allin C. Vesa, M.D. Walter L. Biffl, M.D.			
	It was moved by Dr. Bintliff, seconded by Dr. Kosasa, and unanimously carried to return to the open meeting at 3:47 p.m.			
	It was moved by Dr. Egami, seconded by Dr. Halford, and unanimously carried to approve the following applications:			
	Neil M. Barth, M.D. Anita M. Damodaran, M.D. Derek R. Illastron, M.D. Greta M. Ivers, M.D.			

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> Christopher J. Morgan, M.D. Khaled A. Sorour, M.D. Martin Urban, M.D. Allin C. Vesa, M.D.

Alexei Zhadkevich, M.D.

After due consideration of the information received, it was moved by Dr. Halford, seconded by Dr. Geimer-Flanders, and unanimously carried to affirm its decision of August 13, 2015, requiring that Dr. Zhadkevich participate in a post-licensure assessment program to evaluate his medical knowledge, clinical judgment, and patient management skills. Additionally, the Board may consider removing the post-licensure assessment requirement when it reviews Dr. Zhadkevich's new application and new information in 2018.

Carrye L. Daum, M.D.

After due consideration of the information received, it was moved by Chair Desai, seconded by Dr. Geimer-Flanders, and carried by a majority, with Dr. Kosasa abstaining, to decline Dr. Daum's request to interpret HRS §§ 453-3(4) and 323D-2, to include private practice facilities.

The Board noted that HRS §323D-2, as referenced by HRS §453-3(4), provides the definitions for "Health care facility" and "Organized ambulatory health care facility" and actually falls under the jurisdiction of the State Health Planning and Development Agency ("SHPDA"). In particular, the Board noted that the definition of "Organized ambulatory health care facility" included the following sentence: "The State agency may adopt rules to establish further criteria for differentiating between the private practice of medicine and organized ambulatory health care facilities." Pursuant to HRS §323D-11, SHPDA is the state agency that administers the state health "planning and cost containment activities as required by law". Absent any Department of Health rules establishing any "distinguishing criteria differentiating between the private practice of medicated ambulatory health care facilities.", the Board declines to interpret HRS §§ 453-3(4) and 323D-2, to include private practice facilities.

As such, the Board determined that Dr. Berger-Chen may not sponsor Dr. Daum's application for a temporary license for residency or specialty training in the State of Hawaii.

Mitchell T. Hamele, M.D.

It was moved by Dr. Geimer-Flanders, seconded by Dr. Halford, and unanimously carried to defer Dr. Hamele's application for medical licensure pending additional information.

Otoniel D. Puerto, M.D.

It was moved by Dr. Sept, seconded by Mr. Puletasi, and unanimously carried to approve Dr. Puerto's application pending receipt of a revised application.

Specifically, the Board requires that Dr. Puerto submit a revised application correcting the dates of his internship, residency, and fellowship training to reflect the accurate dates of training as specified on the certificates of completion issued by Saint Joseph Hospital and The University of Louisville Hospitals.

Peter A. Sim, M.D.

After due consideration of the information received, it was moved by Dr. Bintliff, seconded by Dr. Egami, and carried by a majority, with Drs. Halford and Geimer-Flanders opposing, to approve Dr. Sim's application for medical licensure.

Walter L. Biffl, M.D.

It was moved by Dr. Holt, seconded by Mr. Puletasi (with Dr. Akaka recusing himself), and carried by a majority to approve Dr. Biffl's application for medical licensure.

<u>New Business:</u> b. <u>Federation of State Medical Boards ("FSMB"), Board Liaison</u> <u>Representative Report</u>

Dr. Holt, the Board's Liaison Representative to the FSMB informed members that he was contacted by J. Daniel Gifford, M.D., FACP, Chair, Board of Directors, FSMB. Dr. Holt shared that Dr. Gifford and a member of the FSMB staff will be attending the Board's November 12, 2015 meeting, to discuss, among other things, the FSMB Interstate Licensure Compact.

Scope: a. <u>Out-of-State Physician Phone Consultations with Hawaii</u> <u>Residents</u>

> The Board reviewed and discussed an email dated August 27, 2015, from Shirley Dambrauckas, regarding whether: a Hawaii medical or osteopathic medical license is required for Oregon State/out-of-state licensed physician(s) to provide phone consults with Hawaii-residents with ALS.

After due consideration of Ms. Dambrauckas' email, the Board informally opined that anyone engaged in the practice of medicine, as defined by HRSHRS § 453-1, requires a license in the state of Hawaii. HRS § 453-1, defines the practice of medicine as:

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> For the purposes of this chapter the practice of medicine by a physician or an osteopathic physician includes the use of drugs and medicines, water, electricity, hypnotism, osteopathic medicine, or any means or method, or any agent, either tangible or intangible, for the treatment of disease in the human subject; provided that when a duly licensed physician or osteopathic physician pronounces a person affected with any disease hopeless and beyond recovery and gives a written certificate to that effect to the person affected or the person's attendant nothing herein shall forbid any person from giving or furnishing any remedial agent or measure when so requested by or on behalf of the affected person.

This section shall not amend or repeal the law respecting the treatment of those affected with Hansen's disease.

For purposes of this chapter, "osteopathic medicine" means the utilization of full methods of diagnosis and treatment in physical and mental health and disease, including the prescribing and administration of drugs and biologicals of all kinds, operative surgery, obstetrics, radiological, and other electromagnetic emissions, and placing special emphasis on the interrelation of the neuro-musculoskeletal system to all other body systems, and the amelioration of disturbed structure-function relationships by the clinical application of the osteopathic diagnosis and therapeutic skills for the maintenance of health and treatment of disease.

In addition, HRS § 453-2 sets forth certain exceptions for the license requirement, one of which is for purposes of consultation. Specifically, pursuant to HRS § 453-2(b)(4), nothing herein shall:

Apply to any practitioner of medicine and surgery from another state when in actual consultation, including in-person, mail, electronic, telephonic, fiber-optic, or other telehealth consultation with a licensed physician or osteopathic physician of this State if the physician or osteopathic physician from another state at the time of consultation is licensed to practice in the state in which the physician or osteopathic physician resides; provided that:

- (A) The physician or osteopathic physician from another state shall not open an office, or appoint a place to meet patients in this State, or receive calls within the limits of the State for the provision of care for a patient who is located in this State;
- (B) The licensed physician or osteopathic physician of this State retains control and remains responsible for the provision of care for the patient who is located in this State; and

(C)	The laws and rules relating to contagious diseases are not
	violated.

Emphasis added.

The Board noted that based on the information Ms. Dambrauckas provided, it appears that a Hawaii medical license or osteopathic medical license would be required because the Hawaii-licensed physician will <u>not</u> retain control and remain responsible for the provision of care for the Hawaii-resident patient with ALS. Instead, the Oregon-licensed physician or out-of-state-licensed physician will retain control and remain responsible for the provision of care of the Hawaii-resident-patient with ALS.

Lastly, in accordance with HAR § 16-201-90, the above interpretation is for informational and explanatory purposes only. It is not an official opinion or decision, and therefore is not to be viewed as binding on the Board or the Department of Commerce and Consumer Affairs.

<u>Advisory</u>				
Committees:	a.	Physician Assistants		
	b.	Emergency Medical Service Personnel		
	C.	Podiatrists		
<u>Chairperson's</u> <u>Report:</u>	a 3-pa action	Desai informed members that the Star-Advertiser intends to publish art article regarding, among other things, reciprocal disciplinary , the length of time it takes the Board/RICO to investigate and cute cases, etc.		
	the St Howe	Desai also informed members that he was recently interviewed by ar-Advertiser given that he is the Chairperson of the Board. ver, he made it very clear that his opinions were his own, and did flect those of the Board or other members.		
Executive Officer's Report:	FSME	Itive Officer Quiogue reiterated Dr. Holt's comments regarding the I's visit in November, and advised members that the FSMB ntation should take approximately one hour.		
<u>Next Meeting:</u>	King k 335 M	hursday, October 8, 2015 Ting Kalakaua Conference Room, First Floor 35 Merchant Street Ionolulu, HI 96813		
<u>Adjournment:</u>		moved by Dr. Kosasa, seconded by Dr. Holt, and unanimously carried to rn the meeting at 4:05 p.m.		

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Reviewed and approved by:	Taken and recorded by:	
/s/Ahlani K. Quiogue	/s/Wilma Balon	
(Ms.) Ahlani K. Quiogue Executive Officer	Wilma Balon Secretary	
AKQ:wb 9/29/15		
 (X) Minutes approved as is. () Minutes approved with changes; see minutes of 		

HAWAII MEDICAL BOARD (9/10/2015-RATIFICATION LIST)

LTYPE LIC NUM BP NAME PART 1

MD 18282 ANN S <HARADA< MD 18283 LEO A <DAMASCO< MD 18284 RICCARDO <VALDEZ< MD 18285 MICHAEL J < ORAS< MD 18286 HIMABINDU < MIKKILINENI < MD 18287 KRISTINE U <LAYUGAN< MD 18288 KEA D B <GILBERT< MD 18289 JOSHUA W < EVANS< MD 18290 CATHERINE T <HO< MD 18291 LISA <WANG< MD 18292 AMIRAH L <SHAREEF< MD 18293 JOSHUA C <FARRELL-STARBUCK< MD 18294 MAYA D < MODZELEWSKA< MD 18295 BRADFORD W <LEE< MD 18296 GIL <LICHTSHEIN< MD 18297 JENNY M N <SULLIVAN< MD 18298 JANA K <YAKUSHIJI< MD 18299 ALISON K < TAMIYA< MD 18300 CHRISTINA K <SPEIRS< MD 18301 JUSTIN S <HALE< MD 18302 VIKTOR <CORPUZ< MD 18303 ANDREW <STYPEREK< MD 18304 JAMES H <SCHULTZ< MD 18305 VIREN P < PUNJA< MD 18306 RYAN W <SPEIR< MD 18307 SANJAY <BHATT< MD 18308 JENNIFER S < GUTIERREZ< MD 18309 MATTHEW T <FEELEY< MD 18310 JITENDRA S <CHADDA< MD 18311 MOHAMED <EL-GABALAWY< MD 18312 LYDIA <BARTHOLOMEW< MD 18313 ADAM <CORMAN< MD 18314 DAVID R <EDWARDS< MD 18315 ANTHONY J <FROIX< MD 18316 ROBERT M <LABINSON< MD 18317 DAVID <MARX< MD 18318 BRENT J <MATSUDA< MD 18319 MARC A <NOTRICA< MD 18320 THOMAS M <SEAY< MD 18321 NAEMA A <OSMAN< MD 18322 JOSEPH M < BORER<

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MD 18323 EDUARDO F <MATTO< MD 18324 ATTASIT <CHOKECHANACHAISAKUL< MD 18325 EDWARD M <EVANS< MD 18326 SAM <SADLER< MD 18327 WILLIAM T H <JONES< MD 18328 CECILE <MATIP< MD 18329 HARDEEP S <AHLUWALIA< MD 18330 LEE N <GOERNER< MD 18331 MARK D <MCCUBBIN< MD 18332 MICHELLE A <AKIKO< MD 18333 SHIH HAO <LIN< MD 18334 TORITSETIMIYIN M <E-NUNU< MD 18335 MARK A <CONOPIO< MD 18336 NAUSHEEN <GOWANI< MD 18337 CHUNG H <SHUM<

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MDR 6957 MARK R <CHANDLER< MDR 6958 KIMBERLY A <FOX< MDR 6959 MCKENNA J <KNYCH< MDR 6960 MALCOLM S <SCHONGALLA< MDR 6961 CARLA A <SPADES< MDR 6962 MICHAEL R <DAUM< MDR 6963 SARAH F <ISQUICK< MDR 6964 STEPHANIE S <MERRICK< MDR 6965 MAI <SHIMADA< MDR 6966 SARAH M <LUCEY< MDR 6967 ANDREW J <KRIEGER< MDR 6968 ALEXANDRA M <SANSEVERINO< MDR 6969 JENNIFER M <CHEN<

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DOS 1692 JUSTYNA T <WADOLOWSKI< DOS 1693 DAWN A <SPARKS< DOS 1694 JOHN <PHAM< DOS 1695 PEJMAN <BADY< DOS 1696 KERRY <SULLIVAN< DOS 1696 KERRY <SULLIVAN< DOS 1697 NICOLA M N <PRESTON< DOS 1698 LI-CHIEN <CHEN< DOS 1699 MICHAEL M <DICKMAN< DOS 1700 SHARON W <CHI<

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AMD 639 RENEE R <FABRIZI< AMD 640 THERESA <RAND< AMD 641 MONICA S <SANCHEZ< AMD 642 RACHEL L <NORTH< AMD 643 FAUVE E <HILL< AMD 644 BRITTANY N <YAHRAUS< AMD 645 RACHEL A S <MILLER< AMD 646 MICHAEL C <ADAMS<

EMTP 2096 CHRISTOPHER F <BRUSE< EMTP 2097 DONALD G <GREY<

EMTB 2653 JAZZ P C < MARASIGAN< EMTB 2654 NATHAN B < DAUL< EMTB 2655 JASON K <CHILLINGWORTH< EMTB 2656 LAI MING <LARREA-TAM< EMTB 2657 MIKE N <HIRATA< EMTB 2658 DANIEL A < DEANDA < EMTB 2659 KENDELL B < ELENTO < EMTB 2660 MICAH A K < ESTERON< EMTB 2661 NIKO S <FONTANILLA< EMTB 2662 LANE C K <KAHANAOI-NICHOLS< EMTB 2663 VIATCHESLAV D <KHARCHENKO< EMTB 2664 MATEO F < MARIANO< EMTB 2665 ALYSSA K < MCMILLAN< EMTB 2666 STEPHANIE M < NEWHOUSE < EMTB 2667 CHRISTIAN M K < PERKINS< EMTB 2668 KRESTIN K A < ROJAS< EMTB 2669 GAMALIEL O <TAN< EMTB 2670 SARAH <TEVES< EMTB 2671 DASON <ZHENG< EMTB 2672 MICHAEL A <ZUNIGA< EMTB 2673 SARAH L < ANDRADE <