

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for December 14, 2010**

Attendees:

Susan Lucas, MD, Chair
David Barrett
Lain O'Ferrall
Jennifer Ogburn
John Seeds, MD
Gwen Taylor, Esq, MSW

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Claims Manager
Linda Chenoweth, Legislative Affairs Coordinator
Carla Collins, Office of the Attorney General
Crystal Twitty, Office of the Attorney General

Bill McKelway, Richmond Times Dispatch

Call to Order:

Susan Lucas, MD, Chair, called the December Board meeting to order at 1:00 pm.

Introductions:

Board Members, Program staff and Assistant Attorney General Carla Collins introduced themselves to David Barrett, the newest Board member. Crystal Twitty with the Office of the Attorney General was also introduced to everyone in attendance.

Minutes:

John Seeds, MD, motioned to accept the November Board minutes as amended. Gwen Taylor seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the November 2010 financials. The Program has 117 active claimants. The Program has approximately \$248 million in investments as of November 2010 compared to \$216 million in November 2009. Candace Thomas stated financial disclosures were mailed to the Board members. She asked Board members to complete and return the forms to her.

Actuarial reports were provided to Board members present. Susan Lucas, MD, Chair, asked whether there were any changes from last year.

Investment:

Lain O'Ferrall stated that the Program investments had a YTD Rate of Return of 8.5%.

Public Comment:

Bill McKelway, Richmond Times Dispatch, asked whether the case in which healthcare providers' attorneys requested fees had been adjudicated. Bill McKelway asked whether the Program would be proposing any legislation when the General Assembly convenes in January. George Deebo stated that the petition is still pending, and that the Program is not expecting to seek any legislation.

Closed Session (Claimant Issue):

Jennifer Ogburn moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia that the Board go into closed meeting for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Board, and consultation with legal counsel employed or retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel regarding: Discussion of records the Virginia Birth-Related Neurological Injury Compensation Program is required to keep confidential pursuant to Virginia Code Section §38.2-5002.2; more specifically, records concerning the deliberations of the Board of Directors in connection with specific claims, as prevented from being disclosed by Virginia Code Section §38.2-5002.2 (iii). The motion was seconded by Susan Lucas, MD, Chair, and passed unanimously.

Jennifer Ogburn moved the adoption of the following resolution:

Whereas, the Virginia Birth-Related Neurological Injury Compensation Program's Board has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and Whereas, Section 2.2-3712 of the Code of Virginia requires a certification by this Board that such closed meeting was conducted in conformity with Virginia law;

Now, therefore, be it resolved, that the Virginia Birth-Related Neurological Injury Compensation Program's Board certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board. Board members were polled and all certified the motion.

Results of Closed Session (Claimant Issues):

Sue Lucas, MD, motioned to approve a request of a generator for [REDACTED] based on factual information and specific circumstance. Gwen Taylor, Vice-Chair, seconded the motion.

Public Comment:

Bill McKelway asked whether a request for a generator for a ventilated child would be approved automatically by Program staff. George Deebo responded that it usually would, however, the request being made is not for a child on a ventilator.

Closed Session (Case Update):

Jennifer Ogburn moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) of the Code of Virginia that the Board go into closed meeting for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Board, and consultation with legal counsel employed or retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel regarding pending litigation. The motion was seconded by Susan Lucas, MD, Chair, and passed unanimously.

Jennifer Ogburn moved the adoption of the following resolution:

Whereas, the Virginia Birth-Related Neurological Injury Compensation Program's Board has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and Whereas, Section 2.2-3712 of the Code of Virginia requires a certification by this Board that such closed meeting was conducted in conformity with Virginia law;

Now, therefore, be it resolved, that the Virginia Birth-Related Neurological Injury Compensation Program's Board certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board. Board members were polled and all certified the motion.

Adjournment:

A motion to adjourn was made by Susan Lucas, MD, Chair, at 3:00 pm. It was seconded by Lain O'Ferrall, and passed unanimously.