

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for June 9, 2009**

Attendees:

Susan Lucas, MD, Ph.D., Chair
Lain O'Ferrall, Vice-Chair
Robert Boyle, MD
Susan Riddick-Grisham, RN
Dalal Salomon
Gwen Taylor, Esq, MSW
Scott Walters, Esq.

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Executive Assistant
Shirley Ricks, Legislative Affairs Coordinator
Carla Collins, Assistant Attorney General, Office of the Attorney General

Scott Early, Perimeter Security Services
Bill McKelway, Richmond Times Dispatch

Ted and Roni Arven
Sturgis Kidder

Call to Order:

Susan Lucas, Chair, called the June Board meeting to order at 1:05 pm. Introductions followed.

Minutes:

Lain O'Ferrall motioned to accept the May Board minutes. Bob Boyle seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the financial highlights that included the Balance Sheet and the Profit and Loss Report. The Program has \$193 million in investments. There are currently 114 active children in the program. Lain O'Ferrall motioned to accept the May Financial reports. Scott Walters seconded the motion and it passed unanimously.

Investment:

Lain O'Ferrall informed the Board that the Investment Committee met prior to the Board meeting. The committee decided to add two emerging market managers (international markets) and two bond market managers.

Legislative Update:

Shirley Ricks, Legislative Affairs Coordinator, reported that she was scheduled to meet with Senator John Edwards and Delegate Onzlee Ware from Roanoke but they unfortunately had to cancel. Mrs. Ricks met with Senator Henry Marsh. Senator Marsh noted his support for the Program and stated to keep him apprised of any upcoming legislation that would affect the Program. He would be happy to sponsor legislation on behalf of the Program. Susan Lucas asked if there was any new information on the medical malpractice legislation. Mrs. Ricks noted several medical and legal groups were involved in discussions however nothing had been announced yet. The Program has not been a part of those discussions but has been staying in touch with appropriate organizations.

Public Comment:

None.

Open Session (Claimant Issues)

Mr. Sturgis Kidder was asked if he desired to present his material in closed session and he declined. Mr. Kidder, father of Andrew Kidder, asked the Board why there was a hold up with his reimbursement request. He understood that his doctor's order of 24 hours had been sent to a reviewer but wanted to know why it was taking so long. He was concerned that the reimbursement request submitted was not for 24 hour care so why had it not been paid to him yet. He also stated that he had the order from his doctor, Dr. Frank, and did not understand what the problem was since Dr. Frank's signed off the form for 24 hours of nursing care.

George Deebo, Executive Director, explained that most requests for 24 hours of nursing care were reviewed along with medical information to see if the 24 hours of nursing care was warranted. Once the reviewer had sends in their report, then the Program would be able to move forward with Mr. Kidder's reimbursement request.

Closed Session Regarding (Claimant Issues)

Scott Walters 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, and passed unanimously.

Scott Walters 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):

A motion was made to reimburse the van repair expense for [REDACTED]. The Board members voted with a result of 5-2. Motion passed.

A motion was made to table Mr. Kidder's request for reimbursement until the independent reviewer provides his report. In addition, the Program needs permission to contact Medicaid for documentation, as well as permission for our reviewer to speak with Dr. Frank. In order to expedite reimbursement of properly reimburseable expenses, we again request that the parent provide documentation previously requested but not yet provided. The Board members voted with a result of 7-0 passing the motion.

Closed Session Regarding (Personnel)

Scott Walters moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3711 (A)(1) 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 a personnel matter pursuant to Virginia Code § 2.2-3711 (A)(1).

Adjournment:

A motion to adjourn was made by Susan Lucas, Chair, at 3:45 pm. It passed unanimously.