VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Comprehensive Annual Financial Report

Year ended December 31, 2009

(With Independent Auditors' Report Thereon)

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

Presented by
The Department of Finance

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Table of Contents

This page left intentionally blank

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

INTRODUCTORY SECTION

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

This page left intentionally blank

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

Virginia Birth-Related
Neurological Injury
Compensation Program

June 4, 2010

Board of Directors
7501 Boulders View Dr. Suite 210
Richmond, VA 23225

Dear Members of the Board:

The Comprehensive Annual Financial Report (CAFR) of the Virginia Birth-Related Neurological Compensation Program (the Program) for the year ended December 31, 2009, is submitted herewith. This CAFR has been prepared by the Program's Finance Department in accordance with accounting principles generally accepted in the United States of America and conforms to the requirements of the Governmental Accounting Standards Board (GASB).

Phone: 804-330-2471
Fax: 804-330-3054
7501 Boulders View Drive
Suite 210
Richmond, VA 23225
www.vabirthinjury.com
www.vabirthinjury.info

A lifetime of help

Responsibility for both the accuracy of the presented data and the completeness and fairness of the presentation, including all disclosures, rests with the Program. We believe the data, as presented, is accurate in all material respects; that the data is presented in a manner designed to fairly set forth the financial position and results of the operations of the Program as measured by the financial activity of its various accounts; and that all disclosures necessary to enable the reader to gain the maximum understanding of the Program's financial affairs have been included.

This letter of transmittal is designed to complement the Management's Discussion and Analysis (MD&A) and should be read in conjunction with it. The Program's MD&A can be found immediately following the independent auditors' report.

A brief history of the Program, its fiscal operations, and selected accomplishments are presented below.

Organization and Function

With soaring medical malpractice insurance rates and insurance companies on the brink of eliminating coverage in the mid-1980s, up to one-quarter of the Commonwealth of Virginia's (the Commonwealth) obstetricians were threatened with having to close their office doors. To alleviate this crisis, the Commonwealth worked with stakeholders including physicians, associations, insurers, lawyers and others to develop an innovative solution; the Virginia Birth-Related Neurological Injury Compensation Program. The Program was a first of its kind nationally.

The Program's legislation presents a very specific definition of 'birth injury', which represents a very small number of births each year. By keeping many of the most expensive cases out of the court system, combined with a medical malpractice award cap, the medical malpractice insurance industry has been reasonably stabilized in the Commonwealth (especially when compared to other states) allowing physicians to do what they do best – treat patients.

Although the Program was created by the General Assembly of the Commonwealth, it operates as a separate organization. A nine member volunteer board appointed by the

Governor of the Commonwealth directs the Program. The Program is regulated by the Code of Virginia, which is very specific in how it operates.

All admissions are through the Virginia Workers' Compensation Commission; the Program itself does not admit claimants. Financial reports are filed annually with the Governor's office, the Virginia Senate and the Virginia House of Delegates. At least every other year, the State Corporation Commission is required to conduct an actuarial study of the Program.

Entry into the Program does not provide for any pre-determined amount of compensation. The Program operates much like an insurance policy in that it pays for actual medically-necessary costs and other legislatively stipulated benefits. Additionally, the Program is the payer of last resort in all situations. There is no cap on the total eligible lifetime costs for a claimant.

No federal or state funds are involved in providing services to claimants. Funding is derived only from legislatively allowed sources including participating physician fees, participating hospital fees, nonparticipating physician assessments and liability insurer assessments.

Major Initiatives

Participating physicians and hospitals are continuing to become more aware of the benefits of participation for themselves as well as their patients. A qualifying birth can occur despite the heroic efforts of everyone involved. When it does happen, entry into the Program is important to both families and health services providers.

During 2009, 648 physicians participated in the Program. According to the latest information available from the Virginia Health Information Center (2006 data), 618 physicians each delivered at least 30 infants. Along with the coverage benefits of participation, physicians also receive a reduction or credit on their malpractice insurance premiums. During 2009, 38 hospitals enrolled in the Program.

The Program covers expenses that insurance and other programs do not. Medically-necessary expenses such as doctor and hospital visits, therapy, nursing care, and medical equipment are mandated by the guiding legislation. The Code of Virginia also provides a wage benefit paid to the claimant from age 18 to 65, and payment for legal expenses related to filing the claim. In addition, the Program provides benefits including handicapped accessible vans, handicapped accessible bedroom and bath additions to homes, rental assistance, and allowances for therapeutic toys, medical service dogs and experimental therapies.

The Program's administrative cost as a percentage of total expenses (administrative plus claimant) remain low at 8%.

Philosophy

The Program plays a unique role in the Commonwealth. As previously noted, the Program was established due to a need to improve the tort climate for medical care in the Commonwealth, with the specific purpose of keeping malpractice insurers writing policies. It accomplished the goal immediately. According to studies and anecdotal information from key players in the industry, the Program is still fulfilling this role.

However, over the past 20 years the more publicly visible role has become the Program's contribution to caring for this specific group of children. Here the information also shows that they receive more benefits and greater care than those utilizing the tort system.

In fact, an article written by an actuary who has studied the Program and a similar organization in Florida noted that such approaches are highly efficient as compared to tort remedies. He writes that the vast majority of money involved in the Program is used for claimant care whereas in the tort system substantial percentages of funds go to other purposes.

Along with striving for such efficiency, the Program has worked to assure its financial reserves receive maximum growth with minimum risk. This has been accomplished through careful planning and the use of a sophisticated investment policy and practice.

Financial Controls

The Deputy Director is responsible for establishing and maintaining an adequate internal control structure. In fulfilling this responsibility, estimates and judgments are required to assess the expected benefits and related costs of control procedures. The objectives of the control system are to provide the Program with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition and are recorded properly to permit the preparation of financial statements in accordance with accounting principles generally accepted in the United States of America. All internal control evaluations occur within this framework.

The Program's accounting records are maintained on the accrual basis. Revenues are recognized in the accounting period in which they are earned and become measurable; expenses are recognized in the period incurred, if measurable. The accounting and reporting policies conform to accounting principles generally accepted in the United States of America and reflect practices appropriate for a governmental enterprise.

During 2009, the Program discovered that a former employee had been embezzling funds while in her position as Claims Manager. The incidence was investigated by the Virginia State Police and subsequently turned over to the Federal Bureau of Investigation. The former employee has been prosecuted and found guilty. The Board of Directors has taken action by hiring a forensic accountant to evaluate the embezzlement and make recommendations. In addition, the Board of Directors has replaced the former audit firm and hired a law firm for possible civil action. The Program was able to recover a portion of the funds through an insurance claim and received the maximum amount. To prevent the possibility of a similar fraud occurring in the future, the Board of Directors and staff have strengthened the internal controls and are following the recommendations of the forensic accountant.

Independent Audit

The Program's guiding legislation (§38.2-5015B) requires an annual independent audit of the Program's financial records and transactions by an independent certified public accountant selected by the Board of Directors.

Acknowledgements

The Government Finance Officers Association of the United States and Canada (GFOA) awarded a Certificate of Achievement for Excellence in Financial Reporting to the Program for its comprehensive annual financial report for the fiscal year ended December 31, 2008. This was the second consecutive year that the Program achieved this prestigious award. In order to be awarded a Certificate of Achievement, a government must publish an easily readable and efficiently organized comprehensive annual financial report. This report must satisfy both generally accepted accounting principles and applicable legal requirements.

A Certificate of Achievement is valid for a period of one year only. We believe that our current comprehensive annual financial report continues to meet the Certificate of Achievement Program's requirements and we are submitting it to the GFOA to determine its eligibility for another certificate.

The staff of the Finance Department accomplished the preparation of this CAFR for year ended December 31, 2009. We would like to express our appreciation to all members of the Finance Department who assisted and contributed to its preparation.

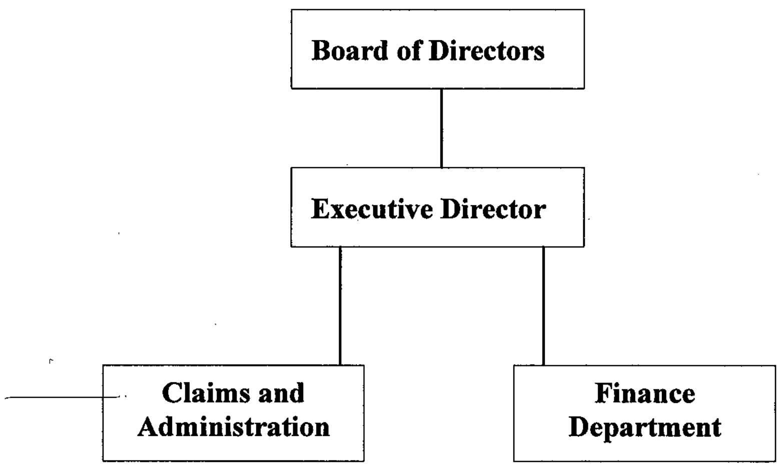
Respectfully submitted,

George Deebo
Executive Director

Candace Thomas, CGFM
Deputy Director

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Organizational Chart



VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Principal Officials

BOARD OF DIRECTORS

Robert Boyle, MD, Chair
Susan Lucas, MD, PHD
Susan Riddick-Grisham, RN, BA
Gwen Taylor, Esq.
McLain O'Ferrall
Jennifer Ogburn
J. Scott Walters, Esq.

OTHER OFFICIALS

Executive Director	George Deebo
Deputy Director	Candace Thomas, CGFM

This page left intentionally blank

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

FINANCIAL SECTION

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

This page left intentionally blank

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

KPMG LLP
Suite 2000
1021 East Cary Street
Richmond, VA 23219-4023

Independent Auditor's Report

The Board of Directors

Virginia Birth-Related Neurological
Injury Compensation Program:

We have audited the accompanying statement of net assets of the Virginia Birth-Related Neurological Injury Compensation Program (the Program) as of December 31, 2009 and the related statements of revenues, expenses and changes in fund net assets and cash flows for the year then ended, which collectively comprise the Program's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the Program's management. Our responsibility is to express an opinion on these basic financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Program's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the basic financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Program as of December 31, 2009 and the respective changes in financial position and cash flows thereof for the year then ended in conformity with U.S. generally accepted accounting principles.

As discussed in note 3 to the basic financial statements, the Program adopted the provisions of GASB Statement No. 52, *Land and Other Real Estate Held as Investments by Endowments,* effective January 1, 2009.

In accordance with *Government Auditing Standards*, we have also issued our report dated June 4, 2010 on our consideration of the Program's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

The Management's Discussion and Analysis on pages 3 through 9 is not a required part of the basic financial statements but is supplementary information required by U.S. generally accepted accounting principles. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit the information and express no opinion on it.

Our audit was conducted for the purpose of forming an opinion on the basic financial statements that collectively comprise the Program's basic financial statements. The Introductory and Statistical Sections are presented for purposes of additional analysis and are not a required part of the basic financial statements. The Introductory and Statistical Sections have not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we express no opinion on them.

KPMG LLP

June 4, 2010

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Management's Discussion and Analysis

December 31, 2009

This Section of the Virginia Birth Related Neurological Injury Compensation Program (the Program) Comprehensive Annual Financial Report (CAFR) represents our discussion and analysis of the Program's financial performance during the fiscal years ended December 31, 2009 and 2008. Please read it in conjunction with the Program's basic financial statements and accompanying notes.

Financial Highlights

- The 2009 revenue from fees and assessments increased by $521,000 or 2%. Fees assessed from participating physicians increased $174,000 or 6%, participating hospitals increased $377,000 or 13%, insurance companies decreased $209,000 or 2% and mandated physician fees increased $179,000 or 5%. (An explanation of significant variances is included later in this report).

- The Program's total net assets increased by $34,000,000 from a deficit of $180,800,000 in 2008 to a deficit of $146,800,000 in 2009. The difference is primarily due to unrealized gains in investment income of $35,600,000, an increase in cash and cash equivalents of $3,800,000, and a reduction in the claims reserve of $15,200,000. (An explanation is included later in this report)

- In 2009, the Program provided $7,195,000 in nursing care, $219,000 in therapy, $352,000 for 8 handicapped accessible vans, $839,000 for housing benefits, $182,000 for durable medical equipment and technology, $59,000 for hospitals and physician visits, and $166,000 for claimant legal fees.

- In 2009, the Program paid 2 awards of $100,000 according to Virginia Code §38.2-5009.1 – Infants dying shortly after birth.

- In 2009, an additional 6 claimants became eligible to receive the wage benefit for a total of 20 eligible claimants. Eligible claimants may receive half of the average weekly wage in the Commonwealth of workers in the private nonfarm sector. (See Virginia Code §38.2-5009.2) A total of $332,000 was paid to the 15 eligible claimants requesting the benefit.

- The average cost per active claimant in 2009 and 2008 was approximately $101,000 and $105,000 respectively.

- As of December 31, 2009 there were 648 participating physicians, down 5 from 653 physicians in 2008. Participating hospitals remained the same at 38 in 2009 and 2008.

- Administrative expenses were 8% of the total expenses (administrative plus claimant) paid in both 2009 and 2008.

- As of December 31, 2009, 58 families received reimbursement for nursing or attendant care provided by a relative or legal guardian according to Virginia Code §38.2-5009. The Program began to reimburse family members for providing care beginning July 1, 2008.

- As of December 31, 2009, the Program had a total of 150 admitted claimants, 37 of which are deceased. During the year ended December 31, 2009, 8 claimants were admitted into the Program, 3 of which were deceased and 3 existing claimants became deceased. 5 claimants were pending as of December 31, 2009. See chart below:

		Total December 31, 2008	2009 Activity	Total December 31, 2009
Admitted	$	142	8	150
Deceased		31	6	37
Active	$	111	2	113

Overview of the Financial Statements

The Program's Comprehensive Annual Financial Report (CAFR) consists of four sections: introductory, financial, statistical, and compliance. The financial section consists of five components; the independent auditors' report, management's discussion and analysis (this component), the basic financial statements, notes to the basic financial statements, and required supplementary information.

The basic financial statements include the Statement of Net Assets, the Statement of Revenues, Expenses, and Changes in Net Assets, and the Statement of Cash Flows. The notes to the basic financial statements provide additional details for understanding information presented in the financial statements. The notes are followed by a section of required supplementary information that includes claims development information.

Financial Analysis

Statement of Net Assets

The following table reflects the summarized Statement of Net Assets of the Program:

Table 1

Summarized Statement of Net Assets

December 31, 2009 and 2008

(In millions)

		2009	2008
Current assets	$	29.2	29.3
Noncurrent assets		216.5*	166.1*
Total assets		245.7	195.4
Current liabilities		13.3	13.3
Noncurrent deferred revenue		22.0	22.7
Noncurrent unpaid claims reserve:			
Admitted claims		240.9	237.2
Incurred but not reported claims		116.3	104.8
Total unpaid claims reserve, noncurrent		357.2	342.0
Total liabilities		392.5	378.0
Unrestricted net assets (deficit)		(146.8)*	(182.6)*
Total net assets	$	(146.8)	(182.6)

* Capital assets and Capital assets net of related debt are immaterial and are not subdivided.

At December 31, 2009 and 2008, the total assets of the Program were $245.7 million and $195.4 million, respectively; total liabilities were $392.5 million and $378.0 million, respectively, while net assets (deficit) were $(146.8) million and $(182.6) million, respectively. The actuarial estimate of future claim payments of children born on or prior to December 31, 2009, plus the actuarial estimate of future claim administration expenses, exceeds the assets of the Program. The reduction in the deficit is primarily due to unrealized investment gains of $35.6 million in 2009.

The $50.4 million increase in noncurrent assets from $166.1 million in 2008 to $216.5 million in 2009 consists primarily of $35.6 million in unrealized investment gains and $6.3 million in interest and dividend revenue.

The total unpaid claims reserve at December 31, 2009 and 2008 was $369.2 million and $354 million, respectively. This represents the estimated cost for claimants currently admitted into the Program and an estimated number of not yet admitted claimants (incurred but not reported, (IBNR)) with birth dates prior to

(Continued)

fiscal year-end that will be admitted to the Program subsequent to fiscal year-end. This reserve is based on an annual actuarial study.

A summary of the claims provision is as follows (in millions):

		2009	2008
Estimated future payments for claimants	$	22.3	23.3
Decrease in provision for change in methodology and assumptions		(12.6)	(1.4)
Interest		22.4	21.1
Estimated claim payments		(16.9)	(21.2)
Net change in claims reserve	$	15.2	21.8

The net change in claims reserve for the years ended December 31, 2009 and 2008 was $15.2 million and $21.8 million, respectively. The change in the provision for change in methodology and assumptions may be due to changes in factors such as mortality, nursing, changes in legislation, number of claimants and inflation.

Statement of Revenues, Expenses and Changes in Fund Net Assets

The following table shows the summarized Statement of Revenues, Expenses, and Changes in Fund Net Assets of the Program:

Table 2

Summarized Statements of Revenues, Expenses, and Changes in Fund Net Assets

Years ended December 31, 2009 and 2008

(In millions)

		Year ended December 31	
		2009	2008
Operating revenues:			
Participating hospitals	$	3.8	3.4
Participating physicians		3.5	3.3
Mandated physician fees		4.2	4.0
Insurance fees		12.6	12.8
Total operating revenues		24.1	23.5
Operating expenses:			
Provision for claims		26.6	33.5
General and administration		0.2	0.2
Total operating expenses		26.8	33.7
Operating loss		(2.7)	(10.2)
Nonoperating revenue (expense):			
Net investment income		36.6	(44.8)
Miscellaneous		0.1	—
Net nonoperating revenue (expense)		36.7	(44.8)
Change in net assets		34.0	(55.0)
Net assets (deficit) at beginning of year		(182.6)	(127.6)
Cumulative effect of accounting change		1.8	—
Adjusted net assets (deficit) at beginning of year		(180.8)	(127.6)
Net assets (deficit) at end of year	$	(146.8)	(182.6)

Revenues

Revenues consist primarily of legislatively established assessments placed on participating and nonparticipating physicians, hospitals, and insurance companies and net investment income. Nonparticipating physicians pay the mandated physician fee. For the years ended December 31, 2009 and 2008, operating revenue was $24.1 million

(Continued)

and $23.5 million, respectively, and nonoperating revenue (expense) was $36.7 million and $(44.8) million, respectively.

Assessments for 2009 for participating and nonparticipating physicians were $5,600 and $300, respectively. Participating hospitals are assessed a fee of $52.50 per live birth for the prior year, as reported by the Department of Health, not to exceed $200,000. In 2009, liability insurers paid one quarter of one percent on the direct premiums written during the prior year.

The participating physicians' assessments increased $174,000 or 6% from $3.3 million in 2008 to $3.5 million in 2009. The number of physicians participating was 648 and 653 in 2009 and 2008, respectively. The assessments increased even though the number of participating physicians decreased due to the assessment amount being increased by $200 per physician from 2008 to 2009.

In 2008, the Virginia General Assembly authorized increases in future year's assessments according to the following chart; however the increase in fees will have a minor effect on the net assets.

Year	Participating physician fee	Mandated physician fee	Hospital
2010	$ 5,900	300	$55/live birth not to exceed $200,000
2011	6,000	300	$55/live birth not to exceed $200,000
2012	6,100	300	$55/live birth not to exceed $200,000
2013	6,200	300	$55/live birth not to exceed $200,000

Net investment income increased in 2009 to a gain of $36.6 million from a loss of $44.8 million in 2008. The losses experienced in 2008 were a result of the global financial and economic crises. During 2009, the investments retraced their losses with a rebound in the markets beginning in March of 2009 and continuing through the fourth quarter.

Expenses

For the years ended December 31, 2009 and 2008, expenditures totaled $26.8 million and $33.7 million, respectively. Expenses are comprised of general administrative and claims related expenses, the latter of which reflects both the increases in claims reserve and the claims paid during the year.

General administrative expenses include the portion of salaries, rent, cost of office equipment, and all other expenses not directly related to claims. Administrative expenses were 8% of the total expenses (administrative plus claimant) in both 2009 and 2008. Management estimates that approximately 80% of the total administrative expenses are directly related to claims administration. Of the total administrative expenses of approximately $981,000 in 2009, approximately $785,000 or 80% is related to claims and approximately $196,000 is related to program administration. In 2008, 80% or approximately $753,000 of approximately $941,000 in administrative expenses was related to claims and approximately $188,000 was related to program administration.

(Continued)

Provision for claims includes the portion of general administration expenses related to claims and actual and future expenses related to claims. Claimant expenses include nursing, therapy, physician and hospital visits, prescriptions, housing, transportation, the wage benefit and durable medical equipment. Provision for claims has decreased from $33.5 million in 2008 to $26.6 million in 2009. These decreases are primarily due to the changes in actuarial assumptions and differences in the estimated future claims expense and actual expense as discussed previously in this report.

Economic Factors

As previously mentioned, the Program's funds have experienced an increase as a result of improving economic conditions in 2009. The Program's conservative policy that provided significant downside protection during the financial crisis in 2008 still allowed the portfolio to participate in the subsequent market recovery that began in the first quarter of 2009. The investment portfolio recorded a gain of 21% for the year of 2009, outperforming both of the target benchmarks.

As of December 31, 2009, 64% of the investment portfolio was invested in separate accounts and 36% was invested in mutual funds. The Board believes these actions together with the guidance from CapGroup, the Program's investment advisor, have significantly improved the investment strategy and will continue to enhance the financial position of the Program, which is an important factor in reducing the actuarial deficit.

Contacting the Program's Financial Management

This financial report is designed to provide users (e.g., citizens, taxpayers, claimant families, service providers and creditors) with a general overview of the Program's finances and to demonstrate the Program's accountability for the funds it receives. Questions concerning this report or requests for additional information should be directed to the Deputy Director, 7501 Boulders View Dr. Suite 210, Richmond, VA 23225, 804-330-2471 or visit our website at http://www.vabirthinjury.com.

This page left intentionally blank

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

BASIC FINANCIAL STATEMENTS

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

This page left intentionally blank

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Statement of Net Assets (Deficit)

December 31, 2009

Assets		
Current assets:		
Cash and cash equivalents	$	28,658,354
Accrued interest and dividends		508,872
Total current assets		29,167,226
Noncurrent assets:		
Investments		216,493,823
Capital assets, net		9,130
Other assets		3,009
Total noncurrent assets		216,505,962
Total assets	$	245,673,188
Liabilities		
Current liabilities:		
Accounts payable	$	1,074,045
Accrued liabilities		235,693
Current portion of unpaid claims reserve		12,000,000
Total current liabilities		13,309,738
Noncurrent liabilities:		
Unearned revenue		21,984,338
Unpaid claims reserve:		
Admitted claims, less current portion		240,900,000
Incurred but not reported claims		116,300,000
Total unpaid claims reserve		357,200,000
Total noncurrent liabilities		379,184,338
Total liabilities	$	392,494,076
Net Assets (Deficit)		
Invested in capital assets, net of related debt	$	9,130
Unrestricted deficit		(146,830,018)
Total net assets (deficit)	$	(146,820,888)

See accompanying notes to basic financial statements.

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Statement of Revenues, Expenses, and Changes in Fund Net Assets (Deficit)

Year ended December 31, 2009

Operating revenues:	
Participating hospitals	$ 3,750,364
Participating physicians	3,532,187
Mandated physician fees	4,170,750
Insurance fees	12,620,887
Other	54
Total operating revenues	24,074,242
Operating expenses:	
Provision for claims	26,572,068
General and administration	196,161
Total operating expenses	26,768,229
Operating loss	(2,693,987)
Nonoperating revenue:	
Net investment income	36,587,978
Miscellaneous	78,884
Net nonoperating revenue	36,666,862
Change in net assets	33,972,875
Net assets (deficit) at beginning of year	(182,603,464)
Cumulative effect of accounting change	1,809,701
Adjusted net assets (deficit) at beginning of year	(180,793,763)
Net assets (deficit) at end of year	$ (146,820,888)

See accompanying notes to basic financial statements.

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Statement of Cash Flows

Year ended December 31, 2009

Cash flows from operating activities:		
Receipts from hospitals	$	3,738,841
Receipts from participating physicians		3,816,034
Mandated physician fee receipts		3,726,630
Receipts from insurance companies		12,141,958
Other receipts		54
Payments on behalf of claimants		(10,646,091)
Payments to suppliers of goods and services		(380,410)
Payments to employees		(556,893)
Net cash provided by operating activities		11,840,123
Cash flows used in capital and related financing activities:		
Purchase of capital assets		(3,988)
Cash flows from investing activities:		
Purchase of investments		(199,121,899)
Proceeds from sale and maturity of investments		185,254,950
Earnings on investments		5,853,104
Net cash used in investing activities		(8,013,845)
Net increase in cash and cash equivalents		3,822,290
Cash and cash equivalents:		
Beginning of year		24,836,064
End of year	$	28,658,354
Reconciliation of operating loss to net cash provided by operating activities:		
Operating loss	$	(2,693,987)
Adjustments to reconcile operating loss to net cash provided by operating activities:		
Depreciation		5,935
Increase (decrease) in:		
Accounts payable		(58,687)
Accrued liabilities		37,585
Unearned revenue		(650,723)
Claims reserve		15,200,000
Net cash provided by operating activities	$	11,840,123
Noncash investing activities:		
Net appreciation in fair value of investments	$	35,596,152

See accompanying notes to basic financial statements.

This page left intentionally blank

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

NOTES TO BASIC FINANCIAL STATEMENTS

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

This page left intentionally blank

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

(1) Summary of Significant Accounting Policies

(a) Nature of Organization

The Virginia Birth-Related Neurological Injury Compensation Program (the Program) was established under the Virginia Birth-Related Neurological Injury Compensation Act (1987, c.540) (the Act). The Program is a related organization for which the elected officials of the Commonwealth of Virginia are accountable as they appoint a voting majority of the Board of Directors (the Board). The Act creates a compensation program that assures lifetime care of infants with severe neurological injuries. The Program is funded through annual assessments of participating physicians and participating hospitals. Liability insurers and nonparticipating physicians contribute to the fund, if necessary, based upon actual experience of the fund. The Program receives no federal or state government funding.

(b) Basis of Accounting

The Program operates as an insurance enterprise fund subject to Governmental Accounting Standards Board (GASB) Statement No. 10, *Accounting and Financial Reporting for Risk Financing and Related Insurance Issues*, GASB Statement No. 30, *Risk Financing Omnibus – An Amendment to GASB Statement No. 10*, and Financial Accounting Standards Board (FASB) Statement No. 60, *Accounting and Reporting for Insurance Enterprises*.

The basic financial statements of the enterprise fund are presented on the accrual basis of accounting, using the economic resources measurement focus. Under this method of accounting, revenues are recognized when earned and expenses are recorded when liabilities are incurred without regard to receipt or disbursement of cash. The Program distinguishes operating revenues and expenses from nonoperating items. Operating revenues and expenses generally result from providing services and collecting fees in connection with the Program's principal ongoing operations.

In accordance with GASB Statement No. 20, *Accounting and Financial Reporting for Proprietary Funds and Other Governmental Entities that Use Proprietary Fund Accounting*, proprietary fund types may follow all applicable GASB pronouncements as well as only those FASB pronouncements and predecessor APB Opinions and Accounting Research Bulletins issued on or before November 30, 1989. Under paragraph 7 of GASB Statement No. 20, the Program has elected not to apply FASB pronouncements issued after November 30, 1989.

(c) Use of Estimates

The preparation of the basic financial statements in accordance with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from these estimates.

(d) Administrative Expenses

Administrative expenses include salaries, rent, cost of noncapitalizable office equipment and other expenses not directly related to claims. In 2009, administrative expenses related to claims processing of approximately $981,000 were allocated to provision for claims expense in the amount of approximately $785,000 and to general and administrative expense in the amount of approximately $196,000.

(e) ***Cash Equivalents***

For purposes of the statement of cash flows, cash equivalents are defined as short-term, highly liquid investments that are both (a) readily convertible to known amounts of cash and (b) so near maturity that they present insignificant risk of changes in value because of changes in interest rates. Generally, the Program considers investments with original maturities of three months or less to be cash equivalents.

(f) ***Investments***

At December 31, 2009, the Program's investments are stated at fair value based on quoted market prices. The Program's investments consist of various index mutual funds and actively managed investments in separate accounts including large and small cap equities, foreign equities, and bonds. Mutual fund investments are valued at their quoted net asset value on the last trading day of the year. Equity securities are valued at the last reported sale price or, if no sale, the latest available bid price on the last business day of the year. All other investments, excluding real estate held in trust, are valued based on amounts provided by the investment advisor or fund administrator.

Under guidelines established by the Board, the Program could, up until 1999, approve the purchase or construction of a home for the family of a claimant subject to certain restrictions. The home is held in a trust and remains the property of the Program, subject to use by the claimant's family during the term of the trust and subject to conditions imposed by the trust agreement. The trust expires upon the death or institutionalization of the claimant, and stipulates that during occupancy the family is responsible for the payment of utilities, general maintenance of the home, and certain other similar obligations. The Program adopted GASB Statement No. 52, *Land and Other Real Estate Held as Investments by Endowments*, effective January 1, 2009. GASB 52 requires the Program to report its real estate held in trust at fair value. Prior to January 1, 2009, the Program reported its real estate held in trust at the lower of cost or fair value. The fair value of real estate held in trust is based on independent appraisals. The cumulative effect of adoption of GASB 52 resulted in an increase of approximately $1,800,000 to beginning net assets.

(g) ***Capital Assets***

Capital assets with a cost of $1,000 or more (threshold implemented in 2004) are recorded at cost. The costs of major improvements are capitalized while the cost of maintenance and repairs, which do not improve or extend the life of an asset, are expensed. Depreciation is provided over the assets' estimated useful lives of three to seven years using the straight-line method.

(h) ***Unearned Revenue***

Unearned revenue represents amounts for which revenue recognition criteria have not been met. It is the Program's policy to recognize mandated assessments, participating doctor and hospital fees, and insurance fees on a pro-rata basis over the period in which the assessment or coverage is related, which is one year. Unearned revenue is classified as noncurrent since management has determined that it will not be used to pay expenses in the next twelve months.

(i) ***Estimated Liability for Unpaid Claims***

The liability for unpaid claims represents management's estimate, developed in conjunction with the assistance of the Program's actuary, of the Program's discounted estimated cost of payments for both claimants admitted to the Program and an estimated number of not-yet-admitted claimants with birth dates prior to the date of the statement of net assets that will be admitted to the Program subsequent to the date of the statement of net assets. Changes in estimates of such costs are recognized in results of operations in the period in which the changes in estimate are made.

The development of liabilities for future benefit requires management to make estimates and assumptions regarding mortality, morbidity, lapse, expense, and investment experience. Such estimates are primarily based on historical experience and future expectations of these assumptions. The Program's actual incurred losses may vary significantly from the estimated amount included in the Program's financial statements. Management monitors actual experience and, if circumstances warrant, revises its assumptions and the related future policy benefit estimates.

(2) Deposits and Investments

The Program's deposit and investment portfolio consists of the following at December 31, 2009:

Cash and cash equivalents	$ 28,658,354
Investments:	
Mutual funds:	
Large cap	38,857,125
U.S. fixed income	55,095,918
International fixed income	4,342,725
International growth	14,713,249
International value	15,344,707
Emerging markets	6,354,101
Separate accounts:	
Large cap growth	12,989,187
Large cap value	14,487,058
Small cap growth	5,604,915
Small cap value	5,276,126
Core fixed income	36,892,726
Real estate held in trust	6,535,986
Total investments	216,493,823
Total cash and cash equivalents and investments	$ 245,152,177

(a) Deposits

All cash of the Program is maintained in accounts collateralized in accordance with the Virginia Security for Public Deposits Act, Section 2.2-4400 et. Seq. of the Code of Virginia or covered by federal depository insurance.

(b) Investments

In accordance with the Virginia Birth-Related Injury Compensation Act, Section 38.2-5016 of the Code of Virginia, the Board of Directors is given the authority to invest the Program's funds in a careful and prudent manner at the advice of the investment advisor.

Credit risk: – The Program's Investment Policy states that no more than 20% of the fair value of the fixed income portfolio shall be rated less than single "A" quality. The Program's fixed income portfolio at December 31, 2009 is as follows:

		Rating	Fair value 2009	Percent of Portfolio	Average Maturity (in years)
Mutual funds:					
Vanguard Bond Index	(2)	AA+	$ 26,203,770	12.5%	6.7
Western Asset Core Plus	(1)	AA	18,551,723	8.8	8.2
Loomis Sayles Global Bond Fund	(1)	Aa1	4,342,725	2.1	6.3
PIMCO Total Return Fund	(1)	AA	10,340,425	4.9	6.0
Separate accounts:					
Atlantic Asset Management	(2)	Aa2/AA	18,372,663	8.8	6.1
Richmond Capital Management	(1)	AA	18,520,063	8.8	6.0
Total			$ 96,331,369		

(1) Average of Moodys and Standard and Poors ratings

(2) Moodys Investors Service/Standard and Poors

Interest rate risk: – The Program does not have a formal investment policy that limits investment maturities as a means of managing its exposure to fair value losses arising from increasing interest rates.

Foreign currency risk: – The Program manages its risk associated with foreign currency fluctuations with the asset allocations outlined in its Investment Policy that limit its investments in international developed and emerging index funds up to 29% of its overall portfolio. The Program's investments subjected to foreign currency risk at December 31, 2009 include mutual funds totaling $40,754,782.

Custodial credit risk: – Custodial credit risk is the risk that, in the event of the failure of the counterparty, the Program will not be able to recover the value of its investment or collateral securities that are in the possession of an outside party. The Program's deposits are maintained in accounts collateralized in accordance with the Virginia Security for Public Deposits Act, Section 2.2-4400 et. Seq. of the Code of Virginia or covered by federal depository insurance. In addition, it is the Program's practice, although not a formal policy that the investment accounts be held in the Program's name.

The Program's return on investments for the year ending December 31, 2009 is summarized as follows:

Interest income	$	1,620,478
Dividend income		4,672,750
Realized loss on investments		(4,762,102)
Net appreciation in fair value of investments		35,596,152
Investment fees		(477,479)
Fiduciary fees		(61,821)
Net investment income	$	36,587,978

(3) Capital Assets

Capital assets at December 31, 2009 and the related changes for the year ended were as follows:

		January 1, 2009	Increases	Decreases	December 31, 2009
Computer equipment	$	38,235	2,050	(228)	40,057
Office equipment		34,086	1,937	—	36,023
Automobiles		17,237	—	—	17,237
		89,558	3,987	(228)	93,317
Less accumulated depreciation		(78,484)	(5,935)	232	(84,187)
Capital assets, net	$	11,074	(1,948)	4	9,130

(4) Estimated Liability for Unpaid Claims

The estimated liability for unpaid claims is the discounted estimated cost of payments for both claimants admitted to the Program and an estimated number of not-yet-admitted claimants with birth dates prior to the date of the statement of net assets that will be admitted to the Program subsequent to the date of the statement of net assets. This discounted cost represents the amount that would need to be invested, as of the date of the statement of net assets, to pay the claimant expenses as they become due. The liability is determined based on an actuarial study, which is mandated to be performed no less frequently than biennially (done annually for 2009 and 2008). Eligible costs under the Program are costs not otherwise paid by private insurance or other government programs. Costs include nursing, housing, hospitals and physicians, physical therapy, vans, medical equipment, prescription drugs, various other incidental items, loss of earnings, and claim filing expenses.

In general terms, the estimated liability for unpaid claims is determined as follows:

(1) The total number of claimants is estimated (actual number of admitted claimants plus estimate of the number of not-yet-admitted claimants born prior to year-end).

(2) Future payments, by category of expense paid for each claimant, are forecast. These estimates are based on the actual payments made by the Program on behalf of the claimants who had been in the program for three or more years as of December 31, 2009 (taking into consideration each claimant's insurance coverage and eligibility for Medicaid), as well as assumptions regarding future cost of inflation and future increases in the utilization of the benefits and services of the Program.

(3) Projected future payments to each claimant are adjusted to reflect an assumed life expectancy for each claimant and the time value of money.

The estimated liability for unpaid claims is forecast based on actual information through the prior fiscal year.

Significant actuarial assumptions for 2009 include:

	2009
Rate of claims inflation (varies based on category of expense)	1.04% – 5.79%
Investment earnings/discount rate	6.58%
Mortality:	
Average life expectancy of claimant at birth	26.4 years
Average life expectancy of claimant that attains the age of three	28.3 years
Estimated number of not-yet-admitted claimants born prior to year end. Estimate Estimate is based on review of how long it takes for claimants to be admitted to the Program.	49 claimants

The total number of claimants (admitted claimants and not-yet-admitted claimants) is estimated to be 200 as of December 31, 2009.

The following represents changes in the unpaid claims reserves for the Program for the year ended December 31, 2009:

		2009	2008
Unpaid claims and claim adjustment expenses at beginning of year	$	354,000,000	332,200,000
Incurred claims:			
Estimated future payments for new claimants admitted in current year		22,300,000	23,300,000
Estimated future payments for new claimants admitted in prior years		22,400,000	21,100,000
Total incurred claims		44,700,000	44,400,000
Claims payments:			
Estimated claims payments for claimants admitted in current year		(1,700,000)	(2,800,000)
Estimated claims payments for claimants admitted in prior years		(15,200,000)	(18,400,000)
Total claims payments		(16,900,000)	(21,200,000)
Decrease in provision for change in methodology and assumptions		(12,600,000)	(1,400,000)
Unpaid claims and claim adjustment expenses at end of year	$	369,200,000	354,000,000

The total undiscounted unpaid claims and claim adjustment expenses amount to $2,424,700,000 at December 31, 2009 and represent unaudited estimates.

(5) Employee Benefits

The Program pays each employee an amount equal to 27% of his or her salary in lieu of a benefits package. This additional salary is to be used by the employee to acquire certain benefits, if they so choose, and is subject to income and payroll taxes. Additional benefits paid by the Program to its employees amounted to $97,864 for the year ending December 31, 2009. These benefits are included as salary and benefits expense on the Program's supplementary schedule of general and administrative expenses.

(6) Operating Lease Commitments

The Program leases its office space under an operating lease expiring in April 2013. Rent expense totaled $65,390 for 2009.

Future minimum obligations under this lease are as follows:

2010	$	63,939
2011		65,857
2012		67,833
2013		22,833

(7) Liquidity

The most recent actuarial study performed for the year ended December 31, 2009, which used claims data as of December 31, 2008, determined that the Program was not actuarially sound. However, the actuarial study did point out that the Program is not in any immediate danger of defaulting on the payment of benefits and that the Program has sufficient assets to continue to pay for claimants' benefits for the subsequent twenty years.

(8) Contingencies

Various pending and threatened lawsuits claim eligibility for program benefits. Management believes the Program's claims reserves based upon actuarial assumptions are adequate to provide for the ultimate resolution of these claims.

This page left intentionally blank

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

REQUIRED SUPPLEMENTARY INFORMATION

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

This page left intentionally blank

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Claims Development Information

December 31, 2009

(In thousands)

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
(1) Premiums and investment revenue:										
Earned	$ 6,001	9,378	18,136	26,131	25,445	26,032	40,292	39,964	(20,801)	60,741
(2) Unallocated expenses	53	—	169	129	137	183	189	197	188	196
(3) Estimated losses and expenses, end of birth year:										
Incurred	7,336	12,871	13,661	14,000	20,733	21,652	23,000	24,500	23,300	22,300
(4) Net paid (cumulative) as of:										
End of birth year	—	—	—	—	—	—	—	—	—	68
One year later	143	119	143	159	—	—	161	124	331	—
Two years later	574	478	572	663	4	42	345	369	—	—
Three years later	914	761	1,190	1,548	217	90	420	—	—	—
Four years later	1,589	1,126	2,008	2,439	575	421	—	—	—	—
Five years later	2,167	1,892	2,795	3,349	802	—	—	—	—	—
Six years later	2,936	2,325	3,881	3,913	—	—	—	—	—	—
Seven years later	3,574	2,902	4,330	—	—	—	—	—	—	—
Eight years later	4,273	3,463	—	—	—	—	—	—	—	—
Nine years later	4,895	—	—	—	—	—	—	—	—	—
(5) Reestimated ceded losses and expenses	—	—	—	—	—	—	—	—	—	—
(6) Reestimated net incurred losses and expenses:										
End of birth year	7,336	12,871	13,661	14,000	20,733	21,652	23,000	24,500	23,300	22,300
One year later	11,827	12,357	13,244	15,333	22,558	22,038	23,021	24,358	20,606	—
Two years later	11,533	11,963	14,544	16,565	22,927	22,058	22,888	21,479	—	—
Three years later	11,309	13,188	15,747	16,814	22,946	21,932	19,644	—	—	—
Four years later	12,008	14,321	15,990	16,827	22,826	18,879	—	—	—	—
Five years later	12,653	14,550	16,002	16,746	19,902	—	—	—	—	—
Six years later	12,784	14,562	15,923	14,772	—	—	—	—	—	—
Seven years later	12,790	14,488	13,997	—	—	—	—	—	—	—
Eight years later	12,748	12,673	—	—	—	—	—	—	—	—
Nine years later	11,713	—	—	—	—	—	—	—	—	—
(7) Increase (decrease) in estimated net incurred losses and expenses from end of birth year	4,377	(198)	336	772	(831)	(2,773)	(3,356)	(3,021)	(2,694)	—

See accompanying independent auditors' report and notes to required supplementary information.

(1) Claims Development Information

The table on the preceding page illustrates how the Program's earned revenue and investment income compare to related costs of loss and other expenses assumed by the Program as of the end of each of the previous ten years. The rows of the table are defined as follows: (1) This line shows the total of each year's gross earned premiums and reported investment revenue. (2) This line shows each year's other operating costs of the Program including overhead and loss adjustment expenses not allocable to individual claims. (3) This line shows the Program's gross incurred losses and allocated loss adjustment expense and net incurred losses and loss adjustment expense (both paid and accrued) as originally reported at the end of the year in which the event that triggered coverage occurred (called birth year). (4) This Section of ten rows shows the cumulative net amounts paid as of the end of successive years for each birth year. (5) This line shows the latest re-estimated amount of losses assumed by re-insurers for each birth year. (6) This section of ten rows shows how each birth year's net incurred losses increased or decreased as of the end of successive years. (This annual re-estimation results from new information received on known losses, reevaluation of existing information on known losses, and emergence of new losses not previously known). (7) This line compares the latest re-estimated net incurred losses amount to the amount originally established (line 3) and shows whether this latest estimate of losses is greater or less than originally thought. As data for individual birth years mature, the correlation between original estimates and re-estimated amounts is commonly used to evaluate the accuracy of net incurred losses currently recognized in less mature birth years. The columns of the table show data for successive birth years.

This page left intentionally blank

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

STATISTICAL SECTION

Virginia Birth-Related Neurological Injury Compensation Program

Since 1987

This page left intentionally blank

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Statistical Section

December 31, 2009 and 2008

Statistical Section

This Section of the Program's CAFR presents detailed information as a context for understanding what the information in the basic financial statements and required supplementary information indicate about the Program's overall financial health. This information has not been audited by the independent auditors.

Financial Trends

These tables contain trend information to help the reader understand how the Program's financial performance and well-being changed over time.

Table 1	Net Deficit by Component
Table 2	Changes in Fund Net Assets (Deficit)
Table 3	Average Cost per Active Claimant
Table 4	Schedule of General and Administrative Expenses

Revenue Capacity

This table contains information to help the reader assess the Program's significant operating revenues.

Table 5	Rates and Assessments

Economic and Demographic Information

These tables offer economic and demographic indicators to help the reader understand the environment within which the Program's financial activities take place.

Table 6	Physicians, Hospitals, and Insurance Companies
Table 7	Virginia Demographic Statistics

Operating Information

These tables contain operating and claimant data to help the reader understand how the information in the Program's financial report relates to the services the Program provides and the activities it performs.

Table 8	Number of Admitted, Deceased, and Active Claimants
Table 9	Number of Employees by Identifiable Activities

Sources: Unless otherwise noted, the information in this Section is derived from the Program's comprehensive annual financial reports for the relevant years. The Program implemented the new reporting model, GASB 34 during the year ended December 31, 2002.

Table 1

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Net Deficit by Component

Last eight fiscal years

Year ended December 31		Invested in capital assets, net of related debt	Unrestricted deficit	Total net deficit
2002	$	35,224	(81,918,097)	(81,882,873)
2003		26,632	(76,529,331)	(76,502,699)
2004		26,887	(99,184,336)	(99,157,449)
2005		19,755	(125,181,112)	(125,161,357)
2006		16,302	(129,328,796)	(129,312,494)
2007		10,504	(127,646,193)	(127,635,689)
2008 – adjusted for adoption of GASB 52		11,074	(180,804,837)	(180,793,763)
2009		9,130	(146,830,018)	(146,820,888)

See accompanying independent auditors' report.

Table 2

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Schedule of Revenues, Expenses, and Changes in Fund Net Assets (Deficit)

Last eight fiscal years

	2009	2008	2007	2006	2005	2004	2003	2002
Operating revenues:								
Participating hospitals	$ 3,750,364	3,373,339	2,715,783	2,926,900	2,753,450	2,730,909	2,357,975	2,256,000
Participating physicians	3,532,187	3,358,073	3,223,346	2,843,793	2,342,449	2,211,184	1,860,843	1,554,790
Mandated physician fees	4,170,750	3,992,183	3,747,915	3,734,266	3,444,676	3,436,378	3,148,690	3,252,200
Insurance fees	12,620,887	12,830,024	12,641,617	11,945,795	11,314,150	9,948,858	8,993,616	8,042,558
Other	54	71	21,296	136,676	—	100	124,914	—
Total operating revenues	24,074,242	23,553,690	22,349,957	21,587,430	19,854,725	18,327,429	16,486,038	15,105,548
Operating expenses:								
Provision for claims	26,572,068	33,458,390	38,009,839	44,254,224	51,853,223	47,963,625	20,621,718	19,600,653
General and administration	196,161	188,126	197,353	188,573	183,164	136,569	129,397	168,682
Total operating expenses	26,768,229	33,646,516	38,207,192	44,442,797	52,036,387	48,100,194	20,751,115	19,769,335
Operating loss	(2,693,987)	(10,092,826)	(15,857,235)	(22,855,367)	(32,181,662)	(29,772,765)	(4,265,077)	(4,663,787)
Nonoperating revenue (expense):								
Net investment income and miscellaneous	36,666,862	(44,874,949)	17,534,040	18,704,230	6,177,754	7,118,015	9,645,251	3,948,476
Change in net assets (deficit)	33,972,875	(54,967,775)	1,676,805	(4,151,137)	(26,003,908)	(22,654,750)	5,380,174	(715,311)
Net assets (deficit) at beginning of year	(180,793,763)	(127,635,689)	(129,312,494)	(125,161,357)	(99,157,449)	(76,502,699)	(81,882,873)	(81,167,562)
Net assets (deficit) at end of year	$ (146,820,888)	(182,603,464)	(127,635,689)	(129,312,494)	(125,161,357)	(99,157,449)	(76,502,699)	(81,882,873)

See accompanying independent auditors' report.

Table 3

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Analysis of Average Cost per Active Claimant

Last eight fiscal years

Year	2009	2008	2007	2006	2005	2004	2003	2002
Claims expense	$ 11,372,049	11,658,390	10,209,839	11,054,224	9,453,223	6,863,625	6,021,718	5,700,653
Number of active claimants	113	111	109	96	91	82	74	67
Average expense per claimant	$ 100,638	105,031	93,668	115,148	103,882	83,703	81,375	85,084
Percent increase or decrease from prior year	(4.2)%	12.1%	(18.7)%	10.8%	24.1%	2.9%	(4.4)%	(17.2)%

Breakdown of claims expenses into major categories

Category	2009	2008	2007	2006	2005	2004	2003	2002
Nursing	$ 7,194,528	6,983,584	6,448,647	6,186,118	5,541,310	4,372,664	2,896,420	2,603,363
Physician/Hospital	59,474	68,119	96,123	81,115	63,976	142,664	239,531	495,169
Therapy	219,303	254,923	254,876	231,712	197,991	111,324	121,300	124,756
Incidentals	139,064	193,317	151,903	179,888	181,039	128,642	122,361	80,536
Prescription	151,905	135,239	127,809	115,265	104,329	76,789	114,313	127,646
Housing	839,436	1,360,826	756,673	1,445,145	937,368	327,912	825,924	819,457
Van	351,673	526,513	501,827	863,555	734,953	315,917	546,992	189,613
Medical equipment	166,926	211,562	188,897	319,405	162,970	219,142	95,923	121,214
Legal fees – claimant	165,654	299,892	283,809	470,204	350,667	315,917	51,986	243,167
Legal fees – attorney general	117,500	150,000	150,000	187,500	225,000	—	—	—
Auto/Health insurance	141,193	143,283	150,940	120,678	104,718	97,893	73,595	10,913
Mileage reimbursement	41,689	73,978	49,276	72,480	32,342	27,822	32,315	8,589
Wage benefit payment	334,207	245,052	97,163	—	—	—	—	—
WCC ordered award	595,850	200,000	—	—	—	—	—	—
Claimant related administrative	784,645	752,504	789,413	754,290	732,654	600,000	562,500	495,000
Other	69,002	59,598	162,483	26,870	83,906	126,939	338,558	381,230
Total claims expense	$ 11,372,049	11,658,390	10,209,839	11,054,225	9,453,223	6,863,625	6,021,718	5,700,653
Percent increase or decrease from prior year	(2.5)%	14.2%	(7.6)%	16.9%	37.7%	14.0%	5.6%	(7.5)%

Percentage of expense per total claims expense

Category	2009	2008	2007	2006	2005	2004	2003	2002
Nursing	63.27%	59.90%	63.16%	55.96%	58.62%	63.71%	48.10%	45.67%
Physician/Hospital	0.52	0.58	0.94	0.73	0.68	2.08	3.98	8.69
Therapy	1.93	2.19	2.50	2.10	2.09	1.62	2.01	2.19
Incidentals	1.22	1.66	1.49	1.63	1.92	1.87	2.03	1.41
Prescription	1.34	1.16	1.25	1.04	1.10	1.12	1.90	2.24
Housing	7.38	11.67	7.41	13.07	9.92	4.78	13.72	14.37
Van	3.09	4.52	4.92	7.81	7.77	4.60	9.08	3.33
Medical equipment	1.47	1.81	1.85	2.89	1.72	3.19	1.59	2.13
Legal	1.46	2.57	2.78	4.25	3.71	4.60	0.86	4.27
Legal fees – attorney general	1.03	1.29	1.47	1.70	2.38	—	—	—
Auto/Health insurance	1.24	1.23	1.48	1.09	1.11	1.43	1.22	0.19
Mileage reimbursement	0.37	0.63	0.48	0.66	0.34	0.41	0.54	0.15
Wage benefit payment	2.94	2.10	0.95	—	—	—	—	—
WCC ordered award	5.24	1.72	—	—	—	—	—	—
Claimant related administrative	6.90	6.45	7.73	6.82	7.75	8.74	9.34	8.68
Other	0.61	0.51	1.59	0.24	0.89	1.85	5.62	6.69
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Change in claims provision	$ 15,200,000	21,800,000	27,800,000	33,200,000	42,400,000	41,100,000	14,600,000	13,900,000
Nonclaims related administrative	196,161	188,126	197,353	188,573	183,164	136,569	129,397	168,682
Total operating expense	$ 26,768,210	33,646,516	38,207,192	44,442,798	52,036,387	48,100,194	20,751,115	19,769,335

Notes:
1. Active claimants are the total admitted claimants less deceased.
2. Other expenses may include medical review, therapeutic toys, computer equipment, funeral expense and medical service dog.

See accompanying independent auditors' report.

Table 4

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Schedule of General and Administrative Expenses

Last eight fiscal years

	2009	2008	2007	2006	2005	2004	2003	2002
Advertising and brochures	$ 2,177	3,841	1,533	4,260	5,249	11,980	35,350	54,139
Computer services	13,065	10,672	10,028	9,558	13,226	12,758	16,159	13,123
Depreciation and amortization	5,936	4,299	6,504	8,669	10,528	11,536	10,993	10,458
Office	14,409	11,623	7,714	9,460	7,771	6,785	7,256	8,455
Other	24,002	22,974	34,130	48,090	55,111	34,541	39,457	46,376
Postage and mailing	8,071	11,100	10,292	8,879	9,909	12,790	13,254	10,348
Professional fees	280,842	234,935	327,188	282,766	286,744	174,480	158,413	119,515
Rent	68,008	62,844	60,957	60,589	59,143	53,498	52,216	48,397
Salaries and benefits	556,899	568,263	518,682	502,315	458,511	352,770	345,988	334,745
Telephone	7,397	10,079	9,736	8,277	9,625	11,709	12,811	16,124
	980,806	940,630	986,764	942,863	915,817	682,847	691,897	661,680
Less claims administration (allocations)	784,645	752,504	789,411	754,290	732,654	546,278	562,500	495,000
Unallocated expenses	$ 196,161	188,126	197,353	188,573	183,163	136,569	129,397	166,680

See accompanying independent auditors' report.

Table 5

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Rates and Assessments

Last eight fiscal years

	2009	2008	2007	2006	2005	2004	2003	2002
Participating physicians	$ 5,600	5,400	5,300	5,200	5,100	5,000	5,000	5,000
Non participating physician	300	290	280	270	260	250	250	250
Hospitals	$52.50/live birth not to exceed $200,000	$50/live birth not to exceed $190,000	$50/live birth not to exceed $180,000	$50/live birth not to exceed $170,000	$50/live birth not to exceed $160,000	$50/live birth not to exceed $150,000	$50/live birth not to exceed $150,000	$50/live birth not to exceed $150,000
Insurance companies estimated net direct premiums subject to assessment	$ 5,048,354,800	5,132,009,600	5,056,646,800	4,778,318,000	4,525,660,000	3,979,543,200	3,597,446,400	3,217,023,200

Notes:

Insurance companies pay one quarter of one percent of net direct premiums written, however, only the liability portion of the premium is assessable as determined by the Virginia Workers Compensation Commission.

Legislation states (§38.2-5020 E) that if required to maintain the Program on an actuarially sound basis, liability insurers shall pay an assessment to the Program. During the years 1998 through 2001, the Program was considered actuarially sound by the Virginia State Corporation Commission and insurance carriers were not required to pay. During the years 2002 through 2009, the Program was determined to be actuarially unsound and the liability insurers were required to pay.

Legislation states (§38.2-5020 G) that if the Virginia State Corporation Commission determines the Program is actuarially sound it will suspend the assessment on nonparticipating physicians. The assessment will be reinstated if it is determined that the assessment is required to maintain actuarial soundness. During the years 1998 through 2001, the Program was considered actuarially sound and nonparticipating physicians were not required to pay. During the years 2002 through 2009, the Program has been determined not actuarially sound and the assessment was reinstated.

See accompanying independent auditors' report.

Table 6

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Physicians, Hospitals, and Insurance Companies

Last eight fiscal years

	2009	2008	2007	2006	2005	2004	2003	2002
Participating:								
Doctors	648	653	622	577	536	508	410	358
Residents	—	88	77	155	147	456	174	131
Total participating physicians	648	741	699	732	683	964	584	489
Mandatory:								
Total mandatory physicians	14,076	13,797	13,817	13,597	13,219	13,445	12,200	12,413
Delinquent:								
Total delinquent physicians	2,670	1,893	1,184	621	737	648	978	1,502
Exempt:								
E1	1,856	1,903	1,852	1,733	1,723	1,701	405	1,282
E2	1,876	2,777	2,739	3,145	2,252	2,742	1,614	2,482
E3	1,457	1,547	1,443	1,596	1,458	1,544	480	1,528
E4	195	204	179	168	167	170	55	170
E5	3,471	3,789	3,661	4,189	3,982	4,085	1,144	3,812
E6	—	531	800	546	442	15	48	1,284
Total exempt physicians	8,855	10,751	10,674	11,377	10,024	10,257	3,746	10,558
Total physicians	26,249	27,182	26,374	26,327	24,663	25,314	17,508	24,962
Hospitals	38	38	31	33	32	33	29	23
Insurance Companies	505	503	506	495	496	484	497	466

Notes:

State law allows a physician to be exempt from paying the mandated assessment if one of the five following criteria are met:

E1. Employed by the Commonwealth of Virginia or federal government and income from professional fees from a source other than the Commonwealth of Virginia or federal government is less than 10% of annual salary.

E2. Enrolled in a full-time graduate medical education program accredited by the American Council for Graduate Medical Education.

E3. Retired from active medical practice.

E4. Engaged in active clinical practice that was limited to the provision of services, voluntary and without compensation, to any patient of any clinic organized in whole or in part for the delivery of health care services without charge.

E5. Not practicing medicine in Virginia (either not currently practicing or practicing in another state).

E6. The above exemption numbers are due to undeliverable addresses returned by the Post Office.

Physicians that are delinquent as of year end are turned over to the Virginia State Corporation Commission, Division of Insurance.

Legislation states (§38.2-5020 E) that if required to maintain the Program on an actuarially sound basis, liability insurers shall pay an assessment to the Program. During the years 1998 through 2001, the Program was considered actuarially sound by the Virginia State Corporation Commission and insurance carriers were not required to pay. During the years 2002 through 2009, the Program was determined to be actuarially unsound and the liability insurers were required to pay.

Legislation states (§38.2-5020 G) that if the Virginia State Corporation Commission determines the Program is actuarially sound it will suspend the assessment on nonparticipating physicians. The assessment will be reinstated if it is determined that the assessment is required to maintain actuarial soundness. During the years 1998 through 2001, the Program was considered actuarially sound and nonparticipating physicians were not required to pay. During the years 2002 through 2009, the Program has been determined not actuarially sound and the assessment was reinstated.

See accompanying independent auditors' report.

Table 7

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Virginia Demographic Statistics

Last eight fiscal years

Note:		2009	2008	2007	2006	2005	2004	2003	2002
1	Population	N/A	7,769,089	7,712,091	7,642,884	7,567,465	7,460,066	73,863,360	7,293,848
1	Number of births	N/A	106,578	108,417	106,474	104,488	103,830	100,561	99,235
2	Number of petitions filed	10	9	15	10	16	17	11	12
2	Number of claimants awarded	8	8	15	8	14	10	11	8
3	Total personal income	N/A	N/A	$ 321,245,259	306,918,105	286,685,185	267,520,630	250,605,455	240,533,600
3	Per capita personal income	N/A	N/A	41,727	40,234	37,988	35,886	34,034	33,055
4	Unemployment rate	N/A	4.2%	3.0%	3.0%	3.5%	3.7%	4.1%	4.2%

Notes:
1 Statistics provided by the Virginia Center for Health Statistics.
2 Statistics provided by Program management.
3 Statistics provided by the Bureau of Economic Analysis
4 Statistics provided by the LAUS Unit and Bureau of Labor Statistics
About 85% of births are covered by either participating hospitals or physicians.

N/A – not available

See accompanying independent auditors' report.

Table 8

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Number of Admitted, Deceased, and Active Claimants

Last eight years

	Total year end 2001	2002 Activity	Total year end 2002	2003 Activity	Total year end 2003	2004 Activity	Total year end 2004	2005 Activity	Total year end 2005	2006 Activity	Total year end 2006	2007 Activity	Total year end 2007	2008 Activity	Total year end 2008	2009 Activity	Total year end 2009
Admitted	68	8	76	11	87	10	97	14	111	8	119	15	134	8	142	8	150
Deceased *	8	—	8	2	10	1	11	2	13	3	16	1	17	3	20	3	23
Deceased on award**	—	1	1	2	3	1	4	3	7	—	7	1	8	3	11	3	14
Total deceased	8		9		13		15		20		23		25		31		37
Active	60		67		74		82		91		96		109		111		113

Notes:
*Number of children in the Program that became deceased subsequent to their award.
**Number of children that were deceased at the time of award to the Program.

See accompanying independent auditors' report.

Table 9

VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Number of Employees by Identifiable Activities

Last eight years

Activity	2009	2008	2007	2006	2005	2004	2003	2002
Executive director	1	1	1	1	1	1	1	1
Finance division	3	3	2	2	2	2	2	2
Claims and administration	6	6	6	5	5	5	4	4

See accompanying independent auditors' report.

This page left intentionally blank

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

COMPLIANCE SECTION

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

This page left intentionally blank

NEUROLOGICAL INJURY

VIRGINIA BIRTH-RELATED

COMPENSATION PROGRAM

SINCE 1987

KPMG LLP
Suite 2000
1021 East Cary Street
Richmond, VA 23219-4023

Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance With *Government Auditing Standards*

The Board of Directors
Virginia Birth-Related Neurological
Injury Compensation Program:

We have audited the basic financial statements of Virginia Birth-Related Neurological Injury Compensation Program (the Program) as of and for the year ended December 31, 2009, and have issued our report thereon dated June 4, 2010. Our report indicated that, the Program adopted the provisions of GASB Statement No. 52, *Land and Other Real Estate Held as Investments by Endowments,* effective January 1, 2009. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control over Financial Reporting

In planning and performing our audit, we considered the Program's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the basic financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Program's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Program's internal control over financial reporting.

A deficiency in internal control over financial reporting exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above. However, we identified a deficiency in internal control over financial reporting that we consider to be a significant deficiency and that is described below. A significant deficiency is a deficiency, or combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Vendor Approvals and Set-Up

We noted that the Program lacks appropriate due diligence controls over the set up and approval of new vendors. We recommend that the Program review its existing policies and implement a more robust process to obtain information on and research each new vendor in order to verify the legitimacy and independence of each, prior to utilizing the vendor. Various sources that can be used to obtain this information include Google, Dun & Bradstreet, OneSource, etc. We recommend that the Program maintain this documentation in vendor files in addition to other information such as licenses, W-9 forms, etc. This additional control will help to ensure the Program that the vendors it conducts business with are legitimate and are accurately representing their companies and the good/services they provide.

Views of Responsible Officials

Contact Person – Candace Thomas, CGFM, Deputy Director

Corrective Action – We have updated our vendor set up process as follows in order to implement the recommendation:

- W-9 forms are sent to new vendors.
- Van dealers and contractors sign a no conflict form prior to payment.
- Deputy Director researches new vendors through a Google search to verify legitimacy and independence prior to utilizing the vendor. (Corrective action)
- Vendors that require background research are those that do not submit their charges through health insurance (i.e. van dealers, contractors, consultants, etc).
- Documentation related to the Google search is maintained in vendor files. (Corrective action)
- Only the Deputy Director is able to enter new vendors into QuickBooks.

Anticipated Completion Date – **April 1, 2010**

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Program's basic financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards.*

We noted certain matters that we reported to management of the Program in a separate letter dated June 4, 2010.

The Program's response to the finding identified in our audit is described above. We did not audit the Program's response and, accordingly, we express no opinion on it.

This report is intended solely for the information and use of management, the Board of Directors, the Commonwealth of Virginia, and others within the Program and is not intended to be and should not be used by anyone other than these specified parties.

KPMG LLP

June 4, 2010