

**Virginia Birth-Related Neurological Injury Compensation Program  
Board of Director's Meeting  
Minutes for March 10, 2015 - Draft**

**Attendees:**

Neal Schulwolf – Vice Chair  
Lydia Byrd  
Vicki Harris, J.D.  
Vanessa S. Rakestraw, Ph.D., CRC  
John Seeds, M.D.

**Also Present:**

George Deebo, Executive Director  
Candace Thomas, Deputy Director  
Angela Conley, Claims Manager  
Carla R. Collins, Assistant Attorney General - III, Office of the Attorney General  
Lee Ann Macerelli, Parent of Joseph Hershberger

**Call to Order:**

Mr. Schulwolf, Acting Chair, called the meeting to order at 10:40 a.m.

**Introductions:**

Mr. Schulwolf welcomed Ms. Macerelli to the Board meeting and introductions were made by the Board members, the Program's staff, and the Board's counsel, Assistant Attorney General Carla R. Collins.

**Minutes:**

Dr. Seeds moved to approve the February minutes, with revisions recommended by Assistant Attorney General Carla R. Collins. Ms. Harris seconded the motion and it passed unanimously.

**Finance:**

Ms. Thomas reported that as of the end of January, investments were \$394 million compared to \$368 million last year. There are 190 admitted claimants, comprised of 144 active claimants and 46 deceased claimants as of January 31, 2015. There are no issues to report.

**Investments:**

Nothing to report.

**Public Comment:**

Nothing to report.

Mr. Schulwolf made a motion for a closed session to discuss a Claimant's issue. Dr. Seeds seconded the motion and it passed unanimously.

**Closed Session (Claimant's Issue):**

Mr. Schulwolf moved 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 Ms. Harris and passed unanimously.

**CERTIFICATION**

Mr. Schulwolf 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 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.

The Board members were polled individually and all certified the motion.

**Results of Closed Session (Claimant's Issue):**

Claimant 1 – ██████████ – VWC File No. B-06-01: Mr. Schulwolf moved that the Board approve up to a maximum of \$46,000 for the purchase of a medically necessary, full-sized van, subject to Claimant obtaining a minimum of two additional quotes. Dr. Seeds seconded the motion and it passed unanimously.

**Closed Session (Claimants' Issues/Pending Cases/Potential Litigation)**

Mr. Schulwolf moved 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) and regarding pending litigation. The motion was seconded by Dr. Seeds and passed unanimously.

**CERTIFICATION**

Mr. Schulwolf 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 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.

The Board members were polled individually and all certified the motion.

**Results of Closed Session (Claimants' Issues/Pending Cases/Potential Litigation):**

Claimant 2 [REDACTED] – VWC File No. B-01-02: Mr. Schulwolf moved that the Board table the request until additional information, including medical documentation, has been obtained. Dr. Seeds seconded the motion and it passed unanimously.

Claimant 3 – [REDACTED] – VWC File No. B-05-07: Mr. Schulwolf moved that the Board request a letter of medical necessity from the Claimant's treating physician to explain and document why a standard hospital bed with proper padding is unable to meet the patient's medical needs. Ms. Harris seconded the motion and it passed unanimously.

Claimant 4 – [REDACTED] VWC File No. B-11-11: Mr. Schulwolf moved that the Board deny the Claimant's request for housing modifications. Ms. Harris seconded the motion and it passed unanimously.

Claimant 5 – [REDACTED] – VWC File No. B-14-07 and Claimant 6 [REDACTED] – VWC File No. B-14-06: Mr. Schulwolf moved that the Board authorize counsel and Executive Director George Deebo to negotiate the terms of agreements to resolve Claimants' respective claims for pre-Petition compensation as discussed. Dr. Seeds seconded the motion and it passed unanimously.

**New Business:**

Nothing to report.

**Executive Director's Report:**

Mr. Deebo advised the members of the Board that there are two seats on the Board for which appointments need to be made. Mr. Deebo also noted that the Program's Nurse Case Manager, Sharon Brittle, R.N. will be out on medical leave for an undetermined period of time.

**Adjournment:**

Mr. Schulwolf, Acting Chair, adjourned the meeting at 12:10 p.m.