

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for July 14, 2015 - Draft**

Attendees:

David Barnett - 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

Robin Harmon, Audit Manager, KPMG
Donna Craver, Partner, KPMG

Call to Order:

Mr. Barrett, Chair, called the meeting to order at 10:30 a.m.

Introductions:

Mr. Barrett asked Board members to introduce themselves. The Board members, the Program's staff, and the Board's counsel, Assistant Attorney General Carla R. Collins, introduced themselves.

Minutes:

Dr. Seeds moved to approve the March 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 May, investments were \$404 million compared to \$379 million last year. As of May 31, 2015, there are 192 admitted claimants, comprised of 145 active claimants and 47 deceased claimants.

Audit:

Robin Harmon, Audit Manager, KPMG, discussed the Required Communications Letter dated June 11, 2015 with the Board. The Program received an unqualified opinion for its Consolidated Annual Financial Report. Donna Craver, Partner, KPMG, was available via conference call for Board members to ask questions. No questions were asked of her.

Investments:

Per Chairman Mr. Barrett, the Investment Committee met prior to the Board meeting with Todd Early and Lisa Longest of The Colony Group to review the investment report for the end of the first quarter and to consider future allocations. Returns for the first quarter were +1.7% and for the year to date ("YTD") were +5.5%. For the month of June, investment performance was -1.5% and +1.3% for YTD. Chairman Barrett is very pleased with the services The Colony Group has provided. The next scheduled investment committee meeting will be held on Wednesday, September 9th, 2015.

Public Comment:

Nothing to report.

Closed Session (Claimant Issues and Pending Litigation):

Ms. Harris moved in accordance with the provisions of Sections 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 Ms. Rakestraw and passed unanimously.

CERTIFICATION

Ms. Harris 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 each certified the motion.

Results of Closed Session (Claimants' Issues and Authorization/Approval of Settlements):

Dr. Seeds moved that the Board authorize and approve all settlements of matters pending in case numbers B-14-05, B-14-07, B-14-06, and B-10-09. Ms. Harris seconded the motion and it passed unanimously.

Dr. Seeds moved that the Board approve payment of legal fees as discussed for VWC File No. B-05-08. Ms. Byrd seconded the motion and it passed unanimously.

Ms. Harris moved, concerning case number B-05-07, that the Board direct staff to request another letter of medical necessity from the admitted 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. Rakestraw seconded the motion and it passed unanimously.

Dr. Seeds moved, concerning case number B-97-10, that the Board approve the admitted claimant's request to sell the claimant's cash grant home and use the proceeds from that sale to purchase a suitable replacement handicapped- accessible home in accordance with the terms and conditions agreed to by the parties. Ms. Harris seconded the motion and it passed unanimously.

Dr. Seeds moved that the Board authorize reimbursement for the actual hours of care up to the number of hours of care prescribed by the treating physician for each of the admitted claimants in the cases of B-06-09 and B-11-11 in accordance with each agreement. Ms. Harris seconded the motion and it passed unanimously.

Ms. Rakestraw moved that the Board withdraw its request for a housing feasibility study for the claimant in case number B-02-03. Dr. Seeds seconded the motion and it passed unanimously.

Closed Session (Claimant Issue/Case Updates/Pending Litigation)

Ms. Harris moved in accordance with the provisions of Sections 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

Ms. Harris 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 each certified the motion.

Results of Closed Session (Claimant Issue/ Cases Updates/Pending Litigation):

Chairman Mr. Barrett moved that the Board authorize Program staff and legal counsel to complete the negotiation process on behalf of the Board in the case of VWC File No. B-11-11 in accordance with the terms, conditions, and limitations on authority discussed and approved by the Board. Ms. Harris seconded the motion and it passed unanimously.

New Business:

Nothing to report.

Executive Director's Report:

Director Mr. Deebo reminded the members of the Board that the September Board meeting is scheduled for Wednesday, September 9th, 2015 due to the Labor Day Holiday.

Adjournment:

Chairman Mr. Barrett, Chair, adjourned the meeting at 12:10 p.m.