

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for January 8, 2008**

Attendees:

Susan Lucas, MD, Ph.D., Chair
Laine O'Ferrall, Vice-Chair
Robert Boyle, MD
Jennifer Ogburn
Dalal Salomon
Ralph Shelman

Also Present:

George Deebo, Executive Director
Iris Allen, Claims Manager
Angela Conley, Executive Assistant
Carla Collins, Assistant Attorney General, Office of the Attorney General
Bill McKelway, Richmond Times Dispatch
Gwen Taylor, Workers' Compensation Commission
David Keeler
Sturgis Kidder

Call to Order:

Susan Lucas, Chair, called the January Board meeting to order at 1:03pm.

Minutes:

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

Finance:

Financial reports for December were not available for the meeting due to the early meeting date. Upon completion of financial reports, Candace Thomas will email them to all Board members.

Investment:

Laine O'Ferrall stated that he had not received any updated reports as of yet for the fourth quarter. Mr. O'Ferrall did state to the Board that the stock market had been down so to expect decreases in the Program's profits.

Legislative Update:

George Deebo reported that he had not received a draft of the bills being proposed by Delegate Morgan or Senator Saslaw, which is not unusual, this early in the General Assembly session.

George Deebo stated that Delegate Kilgore's was submitting another bill that might affect the Program. This bill guarantees the right to in-person depositions rather than allowing the Workers' Compensation Commission to make the appropriate decision. Gwen Taylor of the Workers' Compensation Commission stated that she was not sure how the WCC would interpret the bill if passed.

Susan Lucas commented that the Board would need to re-examine the legislative proposal and would welcome comments from Program families via email. Recognized by the chair, Mr. Kidder stated that Delegate Morgan had stated that he wanted all parties (stakeholders) to come together with possibly creating two separate bills out of the proposed legislation.

Commenting on expected provisions in the Morgan legislation regarding payment of nurses and caregivers, Susan Lucas commented that the quality of care for professional services is the same for all types of payors (major insurance, Medicaid and self pay). Laine O'Ferrall asked why the Program could not hire its own nurses instead of going through an agency. George Deebo responded the idea had been examined in the past but found to be very difficult as well raise many logistical and legal problems.

Public Comment:

Sturgis Kidder, father of Andrew Kidder, requested that the Board reconsider his request to write a letter to the Workers' Compensation Commission to admit his son into the Program.

Bill McKelway, Richmond Times Dispatch, stated that he was unclear of the position of the Board in regards to the proposed legislation. Susan Lucas responded without having seen the legislation it is not possible for any position to be taken. Bill McKelway asked once the draft was available, would the Board affirm parts of the proposed legislation or all of the legislation. Ralph Shelman responded that the Board would review each segment of the proposed legislation and make any appropriate decisions. Laine O'Ferrall recommended that all parts of the proposed legislation should be voted upon by all Board members.

Closed Session Regarding (Legal):

Bob Boyle, MD, moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) of the Code of Virginia that the Board goes into closed meeting for the purpose of discussing claimant issues and 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 probable litigation. Susan Lucas seconded the motion and it passed unanimously.

Bob Boyle, MD, moved the adoption of the following resolution:

Whereas, the Virginia Birth-Related Neurological Injury Compensation Program's Board has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and Whereas,

Section 2.2-3712 of the Code of Virginia requires a certification by this Board that such closed meeting was conducted in conformity with Virginia law;

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

Director's Report:

George Deebo shared with the Board that a contract for the Program's new office space was in the works. Mr. Deebo will share more details as they become available.

Adjournment:

A motion to adjourn was made by Susan Lucas, Chair. The motion was seconded and unanimously agreed to at 2:55 p.m.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for February 12, 2008**

Attendees:

Susan Lucas, MD, Ph.D., Chair
Laine O'Ferrall, Vice-Chair
Robert Boyle, MD
Lynn Chapman
Jennifer Ogburn

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Executive Assistant
Carla Collins, Assistant Attorney General, Office of the Attorney General

Call to Order:

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

Minutes:

Laine O'Ferrall motioned to accept the January Board minutes. Susan Lucas seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the financial highlights that included the Balance Sheet and the Profit and Loss Report. Lynn Chapman inquired about negative Net Ordinary Income on the Profit and Loss Report. Candace Thomas stated that there is deferred income that will be transferred. Susan Lucas inquired about consultant fees on the Profit and Loss Report. Candace Thomas stated that it was for the investment consultants, CapGroup. Also, claimant attorney fees were found under Legal Expenses (9007) and medical expert fees (review on our behalf) were found in Medical Review (9008). Lynn Chapman motioned to accept the January financial statements. Laine O'Ferrall seconded the motion and it passed unanimously.

Investment:

Laine O'Ferrall opened with information to Board members regarding a free service offered by CapGroup to audit the Program's investment policies to certify that the Program is in compliance with the standards of the industry. If compliance is met the Program would receive the Global Fiduciary Standard of Excellence certificate. Board members would be required to sign a letter acknowledging that they are fiduciaries for the Program. There are 26 standards. Laine O'Ferrall stated that it was a good idea. George Deebo stated that he agreed. There was no negative impact of allowing CapGroup to do the audit.

Lain O'Ferrall motioned to add Susan Lucas as a member of the Investment Committee. Bob Boyle seconded the motion and it passed unanimously.

Lain O'Ferrall continued with his monthly Investment Report. The Program investments had an overall increase of 9.8% for 2007. The indices used for comparison had an overall increase of 7.9% for 2007. However, overall investments for fourth quarter only showed a .5% increase in investments. Bonds were up while stocks had gone down.

Lain O'Ferrall noted an internal funds change under the Bernstein managers.

Legislative Update:

George Deebo reported that the General Assembly session was underway. Bills that had been introduced have had the following results thus far:

- Medicaid 120 plan dropped
- Proposal on table for an increase to insurance premiums by 1/3 of current rate
- Use of Florida methodology
- Continue to increase hospital and doctor fees
- Allow payment to parents for care under guidelines to be developed by the Program.
Add 2 additional members to the Board
 - Lawyer with liability experience
 - Person at large (who has experience with disabled children)

Lain O'Ferrall commented that the person at large could be recommended to the Governor's office if anyone knew of a candidate that might be interested.

George Deebo reviewed two bills. SR211 increases fees, adds 2 members to the Board, and paying of parents. SR212 specifically deals with claims under Chapter 919 for confronting and cross-examining witnesses.

Robert Boyle commented that he had been made aware that there were some misconceptions regarding who was representing the Board and Board views during the legislative proceedings. Apparently, from reports, at times it was unclear if someone was representing the Board or their personal concerns. He also suggested that Board members should be careful about any perceptions that the Board and/or Program was endorsing legislation presented by parties outside the Program.

Public Comment:

None.

Closed Session Regarding (Legal):

Lynn Chapman, moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) of the Code of Virginia that the Board goes into closed meeting for the purpose of discussing claimant issues and 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 probable litigation. Susan Lucas seconded the motion and it passed unanimously.

Lynn Chapman, MD, moved the adoption of the following resolution:

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

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

Results of Closed Session:

Lynn Chapman motioned that the request for the pinball machine be denied because the use of the machine by the child is not medically necessary. Bob Boyle seconded the motion and it passed unanimously.

Director's Report:

George Deebo informed the Board that the lease for the Program's new office space had been signed and that staff would be moving in late March or early April.

George Deebo stated that in regards to the legislation process, he will discuss any questions or statements that Board members have to clarify the process.

Old Business:

Lynn Chapman will be emailing members of the Policy and Guidelines committee to discuss possible revisions and to set up a date for its next meeting. Current committee members are Lynn Chapman, Jennifer Ogburn, and Ralph Shelman.

New Business:

George Deebo discussed with the Board (also in memo) that there was a need to increase the staff health benefit stipend to meet recent increases in health insurance costs. The stipend increase would move from 23 percent to 27 percent of base salary. This change would bring the level back up the equivalent of what the Commonwealth of Virginia compensates employees for health insurance and disability coverage.

Bob Boyle motioned for the Program to increase the benefits stipend provided to Program employees from 23 percent to 27 percent of base salary and in the future allow the Executive Director to annually modify the percentage rate to track that of the Commonwealth with notification provided to the Board of Directors. Lynn Chapman seconded the motion and it passed unanimously.

Adjournment:

A motion to adjourn was made by Susan Lucas, Chair. The motion was seconded and unanimously agreed to at 2:55 p.m.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for March 11, 2008**

Attendees:

Susan Lucas, MD, Ph.D., Chair
Laine O'Ferrall, Vice-Chair
Robert Boyle, MD
Lynn Chapman
Jennifer Ogburn

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Iris Allen, Claims Manager
Angela Conley, Executive Assistant
Carla Collins, Assistant Attorney General, Office of the Attorney General

Theodore Arven
William and Pam Rice
Sturgis Kidder

Call to Order:

Susan Lucas, Chair, called the March Board meeting to order at 1:01pm.

Minutes:

After minor corrections were noted, Bob Boyle motioned to accept the February Board minutes. Lynn Chapman seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the financial highlights that included the Balance Sheet and the Profit and Loss Report. The Program currently has \$208 million in assets with few variations over 15% from current to previous year totals. Lynn Chapman asked why the nursing expense had increased over \$500,000 from January to February. Candace Thomas stated that it could be due to invoices being caught up with payments for December thru February. Lynn Chapman motioned to accept the February financial statements. Bob Boyle seconded the motion and it passed unanimously.

Legislative Update:

George Deebo reported that the two bills that affected the Program were in the process of being signed into law by the Governor. The bills had not changed any since last month but gave a brief overview of SB211, SB212 and HD1305.

- Increase in fees for physicians and hospitals
- Allows use of Florida actuarial methodology Medical Review Board Panels to alternate
- Payment to parents for care of their child under Program Guidelines
 - Drafted guidelines will be provided to Board members first, then to families and posted on Program website and State Register for 60 days to receive comments.
 - Two Board member additions. Person at large (who has experience with disabled children) and a lawyer with personal injury experience

Investment:

Laine O'Ferrall commented that the Program's investments overall were down 7% but all investments across the board were down. It would be a tough comeback but possibly in six months or so, we could see an increase return to the investments.

Public Comment:

Lain O'Ferrall stated that comments made by David Keeler, father of claimant in the program, in the Washington Post were noted as very negative towards the Program and should be addressed by the Board. He felt the article seemed very biased and recommended the Program do more public relations to challenge negative reports.

Lynn Chapman stated that unless the reporter wrote information incorrectly, there was nothing that the Board could do. She felt that what the reporter wrote was probably quoted as stated in the newspapers.

George Deebo commented that the Board could send a letter to the editor. Mr. Deebo stated that he would draft the letter for the Board chair to sign in order to represent the Board as an entity.

Sturgis Kidder stated that HR222 had been allowed to die due to inaccurate information of financial information related to how it would impact the budget with regards to use of general and/or non-general state funds.

Claimant Issues: (Open session)

Theodore Arven, father of Cody Arven, addressed the board regarding benefits for his son Cody.

William and Pam Rice addressed the board regarding reimbursement for services provided to their now deceased son prior to admission into the Program.

Closed Session Regarding (Claimant and Legal):

Lynn Chapman, moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) of the Code of Virginia that the Board goes into closed meeting for the purpose of discussing claimant issues and 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 probable litigation. Susan Lucas seconded the motion and it passed unanimously.

Lynn Chapman moved the adoption of the following resolution:

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

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

Results of Closed Session:

Susan Lucas, MD, motioned that the request from [REDACTED] be denied because of prior WCC ruling that benefit was not in effect at the time of the child's birth. Lain O'Ferrall seconded the motion and it passed unanimously.

Susan Lucas, MD, motioned that the request from [REDACTED] be denied because of no evidence of medically necessary for the child and it is not a covered benefit under the Program's current guidelines. Lynn Chapman seconded the motion and it passed unanimously.

Susan Lucas, MD, motioned that the request from [REDACTED] be denied because moving expenses are not a covered benefit under the Virginia statute or by current Program guidelines. However, the expense to move the DME of \$600 was approved upon receipt of payment for the expense by the family. Jenny Ogburn seconded the motion and it passed unanimously.

Adjournment:

A motion to adjourn was made by Susan Lucas, Chair. The motion was seconded and unanimously agreed to at 3:25 p.m.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for April 8, 2008**

Attendees:

Susan Lucas, MD, Ph.D., Chair
Laine O'Ferrall, Vice-Chair
Robert Boyle, MD
Lain O'Ferrall
Jennifer Ogburn
Dalal Salomon
Ralph Shelman

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Iris Allen, Claims Manager
Angela Conley, Executive Assistant
Carla Collins, Assistant Attorney General, Office of the Attorney General
Frank Ferguson, Deputy Attorney General, Office of the Attorney General
Bill McKelway, Richmond Times Dispatch
Sturgis Kidder

Call to Order:

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

Minutes:

After minor corrections were noted, Lain O'Ferrall motioned to accept the March Board minutes. Dalal Salomon seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the financial highlights that included the Balance Sheet and the Profit and Loss Report. The Program currently has \$207 million in investments. Candace Thomas stated that she has reviewed the final draft of audit report and should have all comments back from the auditors in a week along with the final draft of the report. Ralph Shelman motioned to accept the March financial statements. Bob Boyle seconded the motion and it passed unanimously.

Investment:

Laine O'Ferrall commented that the mortgage crisis has affected the market globally and driven investments down. The first quarter report for 2008 is not available yet but Mr. O'Ferrall will have it available for the next Investment Committee Meeting. During April, the stock market has been up by 3.4%. Dalal Salomon commented the stock market will recover and investments will gradually begin to rise again. The Program's portfolios are conservative so the losses will break even once gains return, and then we will see more increases in our investments.

Public Comment:

Bill McKelway, Richmond Times Dispatched, inquired into the number of hospitals currently participating with the Program. George Deebo responded that in 2007, the Program had around 630 doctors and 30 hospitals. In 2008, the hospitals are about the same with losing a few hospitals and gaining Bon Secours, and doctors are around 615. Mr. McKelway commented that the Program was now able to get Bon Secours due to the increase in birth injury malpractice that is on the rise with Bon Secours.

Closed Session Regarding (Claimant and Legal):

Jennifer Ogburn moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia that the Board goes into closed meeting for the purpose of discussing claimant issues and 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 probable litigation.

Jennifer Ogburn moved the adoption of the following resolution:

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

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

Results of Closed Session:

Susan Lucas, MD, motioned that for the Program to reimburse ██████████ for experimental therapy completed in 2007, under the current experimental therapy allowances, provided that progress notes were received. Dalal Salomon seconded the motion and it passed unanimously.

New Business:

George Deebo provided a memo to all Board members discussing removal of used equipment currently held in storage to be donated to a hospital or school, or last resort, to the local Goodwill location. Ralph Shelman motioned the Program to donate used durable medical equipment, when appropriate as determined by the Executive Director, to worthy nonprofit or governmental organizations or agencies. Susan Lucas, MD, seconded the motion and it passed unanimously.

Executive Report:

George Deebo reminded Board members that the Program offices would be moving on Friday, April 25th and that the offices would be closed that day. Offices will reopen on Monday, April 28th.

A first draft of the revised guidelines are currently under review by Lynn Chapman, chair of the policy review committee, and Carla Collins of OAG. Revised guidelines will be provided to Board members for review, hopefully by the May Board meeting. After Board members review, the proposed guidelines will be sent out to the public for comment and a notice placed in the Virginia Registrar.

George Deebo stated that Ginny Tweel, Nurse Case Manager, has resigned her position as of April 17th, 2008. Applicants were being interviewed and hopefully, a new person would be in place by mid-May.

Adjournment:

A motion to adjourn was made by Susan Lucas, Chair. The motion was seconded and unanimously agreed to at 3:00 p.m.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for May 13, 2008**

Attendees:

Susan Lucas, MD, Ph.D., Chair
Laine O'Ferrall, Vice-Chair
Robert Boyle, MD
Lain O'Ferrall
Jennifer Ogburn
Dalal Salomon
Ralph Shelman

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Executive Assistant
Carla Collins, Assistant Attorney General, Office of the Attorney General
Bill McKelway, Richmond Times Dispatch
Ted Arven
Luis and Roxanna Bustios
Sturgis Kidder

Call to Order:

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

Minutes:

Lain O'Ferrall motioned to accept the April Board minutes. Jennifer Ogburn seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the financial highlights that included the Balance Sheet and the Profit and Loss Report. Ralph Shelman motioned to accept the April financial statements. Lain O'Ferrall seconded the motion and it passed unanimously.

Investment:

Lain O'Ferrall reviewed the Investment Committee meeting that was held at 10:00 am prior to the Board meeting. For YTD, the Program's funds are down 1.3%. The first quarter was off to a slow start but the investments are increasing gradually. Mr. O'Ferrall commented that overall the Program's investments are in pretty good shape considering the market conditions. The summaries of the Program's investment will be posted to the website and performance reports will be forthcoming to the Board members.

Finance and Audit Committee:

Candace Thomas stated that the Program will be applying for the Government Finance Officers Association Certificate of Excellence in Financial reporting. Ralph Shelman commented that he wanted to thank Candace for a job well done on the Audit Report. Candace Thomas will have the 2007 Financial reports onto the website following the Board meeting.

Public Comment:

None

Claimant Issues: (Open Session)

Ted Arven, father of Cody Arven, addressed the board regarding reimbursement for providing care to their son Cody during the first four years of his life.

Luis Bustios addressed the board to allow his wife to be paid for caring for their daughter, Giuliana, for a portion of the hours currently provided by the nursing agency.

Closed Session Regarding (Claimant):

Susan Lucas, MD, Chairperson, moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia that the Board goes into closed meeting for the purpose of discussing claimant issues, 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 probable litigation.

Susan Lucas, MD, Chairperson moved the adoption of the following resolution:

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

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

Results of Closed Session (Claimant):

Susan Lucas, MD, motioned to table ██████████ request for reimbursement due to pending litigation and allow time for Board members to review documentation presented. Motion accepted by unanimous consent.

Susan Lucas, MD, motioned to deny ██████████ request for paying parent since under the current guidelines it is not a reimbursable benefit. Motion accepted by unanimous consent.

Susan Lucas, MD, motioned to deny ██████████ request for reimbursement for previous years experimental therapy. Motion accepted by unanimous consent.

Closed Session Regarding (Legal and Litigation)

Susan Lucas, MD, Chairperson, moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) of the Code of Virginia that the Board goes 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 probable litigation.

Susan Lucas, MD, Chairperson, moved the adoption of the following resolution:

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

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

Adjournment:

A motion to adjourn was made by Susan Lucas, Chair. The motion was seconded and unanimously agreed to at 2:50 p.m.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for June 10, 2008**

Attendees:

Susan Lucas, MD, Ph.D., Chair
Lain O'Ferrall, Vice-Chair
Robert Boyle, MD
Lynn Chapman
Dalal Salomon

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Executive Assistant
Carla Collins, Assistant Attorney General, Office of the Attorney General
Bill McKelway, Richmond Times Dispatch
Ted Arven
Sturgis Kidder

Call to Order:

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

Minutes:

Lain O'Ferrall motioned to accept the May Board minutes after minor corrections were noted. Susan Lucas seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the financial highlights that included the Balance Sheet and the Profit and Loss Report. George Deebo mentioned that the Program was now paying the Wage Benefit to several claimant families and the expense could now be seen on the financial reports. Lain O'Ferrall motioned to accept the May Financial reports. Motion accepted by unanimous consent.

Investment:

Lain O'Ferrall commented to the Board that the Program's investments for the quarter were up by 3% but the year to date was down by 2.3%. Overall, the market is down in many areas, including the S & P that is down 5.5%.

Public Comment:

Sturgus Kidder, father of Andrew Kidder, commented to the Board that his son's petition had been awarded by the Workers Compensation Commission on May 21st, 2008. Mr. Kidder asked the Board if they would appeal the WCC's decision? Mr. Kidder also commented on the wage benefit since his son has already turned 18 years old and that he has already met with a tax attorney.

Bill McKelway, Richmond Times Dispatch, asked if Lynn Chapman's vote counted on the Board since she has resigned her seat as a Board member? Lynn Chapman stated that she had corresponded with the Governor's office and stated that she would gladly remain on the Board until a replacement was found.

Claimant Issues: (Open Session)

Ted Arven, father of Cody Arven, addressed the board regarding reimbursement for providing care to their son Cody during the first four years of his life by presenting tax information to verify parents' employment during 2003-2007. Lain O'Ferrall commented that documented expenses were still needed in order to review the Arven's request.

Closed Session Regarding (Claimant):

Susan Lucas, MD, Chairperson, moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia that the Board goes into closed meeting for the purpose of discussing claimant issues, 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 probable litigation. The motion was seconded by Lain O'Ferrall and passed unanimously.

Susan Lucas, MD, Chairperson moved the adoption of the following resolution:

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

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

Results of Closed Session (Claimant):

Susan Lucas, MD, motioned to table Mr. Arven's request because the matter is in pending litigation, we table this request at this time. Bob Boyle seconded the motion and it passed unanimously.

Susan Lucas, MD, motioned that the Board did not plan to take any further action on the issue of eligibility determination on the petition of [REDACTED]. Motion accepted by unanimous consent.

Closed Session Regarding (Legal and Litigation)

Susan Lucas, MD, Chairperson, moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia that the Board goes 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 probable litigation. The motion was seconded by Lain O'Ferrall and passed unanimously.

Susan Lucas, MD, Chairperson, moved the adoption of the following resolution:

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

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

Results of Closed Session (Legal and Litigation):

Susan Lucas, MD, motioned to approve the use of the proposed Temporary Administrative Guidance regarding paying family members for care as of July 1st, until revised guidelines are adopted at the end of the regulatory process. Lynn Chapman seconded the motion and it passed unanimously.

Susan Lucas, MD, motioned to table case update until the July Board meeting. Motion accepted by unanimous consent.

Closed Session Regarding (Personnel)

In accordance with the applicable provisions of the Code of Virginia 2.2-3711(A)(1), I move that the Board go into closed meeting for the purpose of discussing a personnel matter. Motion accepted by unanimous consent.

Adjournment:

A motion to adjourn was made by Susan Lucas, Chair. The motion was seconded and unanimously agreed to at 3:30 p.m.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for July 8, 2008**

Attendees:

Susan Lucas, MD, Ph.D., Chair
Lain O'Ferrall, Vice-Chair
Robert "Bob" Boyle, MD
Lynn Chapman
Jennifer Ogburn
Dalal Salomon

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Executive Assistant
Carla Collins, Assistant Attorney General, Office of the Attorney General
Francis Fox
Sturgis Kidder

Call to Order:

Susan Lucas, Chair, called the June Board meeting to order at 1:00 pm. Introductions were made for those present.

Minutes:

Lynn Chapman motioned to accept the June Board minutes. Susan Lucas seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the financial highlights that included the Balance Sheet and the Profit and Loss Report. Candace Thomas stated that the Program had \$205 million in investments and there are currently 110 active children in the program. Lynn Chapman motioned to accept the May Financial reports. Bob Boyle seconded the motion and it passed unanimously.

Investment:

The Board was presented an Interim Performance Review emailed by Jim Rorrer with CapGroup. The review showed that the Program's investments were down by 5.7% YTD as of June 30th, 2008.

Public Comment:

Francis Fox, grandmother of Britney Fox, was present to observe the Board meeting process.

Sturgus Kidder, father of Andrew Kidder, commented to the Board that he had questions regarding the proposed paying of parents as caregivers. The proposed guidelines for paying of parents comment period is due to expire around the next Board meeting. Mr. Kidder felt that families should be given the opportunity to address questions and/or concerns at the next Board meeting therefore adjusting the review period from 60 to 90 days. George Deebo commented that it would be okay to extend the comment period of time. Mr. Deebo suggested having a longer September Board meeting to allow parents to present questions or comments regarding the proposals to the Board.

Susan Lucas, MD, wanted to clarify a discussion at the Board's June meeting that occurred during closed session regarding Intensive Physical Therapy. Intensive Physical Therapy has been taken out of experimental therapy and will follow normal Program requirements.

Claimant Issues:

None.

Closed Session Regarding (Guidelines)

Susan Lucas, MD, Chairperson, moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) of the Code of Virginia that the Board goes 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 probable litigation and legal advice regarding potential revisions to the Program's Guidelines. The motion was seconded by Lynn Chapman and passed unanimously.

Susan Lucas, MD, Chairperson, moved the adoption of the following resolution:

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

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

Results of Closed Session (Guidelines):

Susan Lucas, MD, motioned to adopt minor proposed modifications to the proposed guidelines Jennifer Ogburn seconded the motion and it passed unanimously.

Susan Lucas, MD, motioned to extend the public comment period until September 15th, 2008 for families. Lynn Chapman seconded the motion and it passed unanimously.

Closed Session Regarding (Case Updates)

Susan Lucas, MD, Chairperson, moved that the meeting convene in accordance with the applicable provisions of the Code of Virginia that the Board goes into closed meeting for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Board, and consultation with legal counsel employed or retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel regarding pending litigation. The motion was seconded by Bob Boyle and passed unanimously.

Susan Lucas, MD, Chairperson, moved the adoption of the following resolution:

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

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

Adjournment:

A motion to adjourn was made by Susan Lucas, Chair. The motion was seconded and unanimously agreed to at 2:55 p.m.

August No Meeting

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Special Meeting – Holiday Inn Koger Center Select
Minutes for September 9, 2008**

Attendees:

Susan Lucas, MD, Ph.D., Chair
Lain O'Ferrall, Vice-Chair
Robert "Bob" Boyle, MD
Lynn Chapman
Jennifer Ogburn
Dalal Salomon
Ralph Shelman

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Executive Assistant
Iris Allen, Claims Manager
Carla Collins, Assistant Attorney General, Office of the Attorney General
Sturgis Kidder
Kimberly Nelson
Ann Jones, attorney, Jones & Rostant, PC
Bill McKelway, Richmond Times Dispatch

Call to Order (Public Session):

Susan Lucas, Chair, called the Special September Board meeting to order at 10:05 am. Introductions were made for those present. Dr. Lucas made a brief statement to those present to open the public session of the meeting.

Public Session (10:00am to 12:00pm)

During the public session, Sturgis Kidder, Ann Jones and Kimberly Nelson expressed their thoughts on the revised Program Guidelines. Items that were discussed were nursing, family caregiver benefit, therapy, program van allowances, housing, medical insurance, experimental treatment and therapy, and appeal time frame for disagreements.

Call to Order (Regular Meeting)

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

Minutes:

Susan Lucas motioned to accept the July Board minutes. Lynn Chapman seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the financial highlights that included the Balance Sheet and the Profit and Loss Report. Candace Thomas stated that the Program had \$198.5 million in investments and there are currently 110 active children in the program. Lynn Chapman motioned to accept the August Financial reports. Lain O'Ferrall seconded the motion and it passed unanimously.

Investment:

Lain O'Ferrall presented an Interim Performance Review as of August 31st, 2008. The review showed that the Program's investments were down by 7% YTD. Lain O'Ferrall stated that market was in turmoil but overall our investments were still in good standing. He stated that along with the stocks being down the bonds were also showing decreases which, in this market, is unusual.

Public Comment:

None.

Claimant Issues:

Sturgis Kidder requested a van with a freedom seat for his son, Andrew. Andrew is unable to sit in the wheelchair during trips and cannot sit in a regular seat either. The wheelchair does need to be transported in the van and a wheelchair lift for the back of the van is required. Mr. Kidder does have a doctor's request for this specific seat for the van.

Closed Session Regarding (Claimant and Guidelines)

Jennifer Ogburn moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) of the Code of Virginia that the Board goes 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 probable litigation and legal advice regarding claimant requests and potential revisions to the Program's Guidelines. The motion was seconded by Lynn Chapman and passed unanimously.

Jennifer Ogburn moved the adoption of the following resolution:

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

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

business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board. Board members were polled and all certified the motion.

Results of Closed Session (Claimant):

Lain O'Ferrall motioned to provide [REDACTED] with a freedom seat along with the program van. Bob Boyle seconded the motion and it passed unanimously.

Results of Closed Session (Guidelines):

Susan Lucas, chair, motioned to table [REDACTED] request of reimbursement for therapy expenses in 2005 until the October Board meeting to have a chance to review additional information presented by [REDACTED]. Lain O'Ferrall seconded the motion and it passed unanimously.

Adjournment:

A motion to adjourn was made by Susan Lucas, Chair, at 3:10pm. Lynn Chapman seconded the motion and it passed unanimously.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for October 14, 2008**

Attendees:

Susan Lucas, MD, Ph.D., Chair
Lain O'Ferrall, Vice-Chair
Robert "Bob" Boyle, MD
Jennifer Ogburn
Gwen Taylor

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Executive Assistant
Shirley Ricks, Legislative Affairs Coordinator
Carla Collins, Assistant Attorney General, Office of the Attorney General
Sturgis Kidder
Bill McKelway, Richmond Times Dispatch

Call to Order:

Susan Lucas, Chair, called the October Board meeting to order at 1:00 pm. Introductions were made for those present for Shirley Ricks and Gwen Taylor.

Minutes:

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

Finance:

Candace Thomas reviewed the financial highlights that included the Balance Sheet and the Profit and Loss Report. Candace Thomas stated that there was a correction in the general notes regarding the date. Program has \$187 million in investments and there are currently 111 active children in the program. Candace Thomas announced that she would be meeting with the auditors on October 16th, 2008. Lain O'Ferrall motioned to accept the September Financial reports. Gwen Taylor seconded the motion and it passed unanimously.

Investment:

Lain O'Ferrall stated that the Program investments were starting to rise but the market was still low. YTD was down by 13%. He noted that was actually a good showing considering the overall market and it's due to a strong and diverse investment policy. Lain O'Ferrall also stated that bonds were down as well which is unusual when equities are also down.

Public Comment:

Bill McKelway, Richmond Times Dispatch, asked Lain O'Ferrall if the Program had not diversified the funds, would the Program still be in the position it is in with the market? Lain O'Ferrall commented that if the Program had stayed with its investments prior to the newer policy it might have a loss of 35% or more instead of the current 13%.

Sturgis Kidder thanked the Program for the timeliness of processing his request for reimbursement. Mr. Kidder has received the seat and van for his son, Andrew. Andrew is very happy with the van.

Susan Lucas announced that due to the Program offices being closed on the next Board meeting date, she asked if the Board could meet a different day. The November Board meeting will be held on Wednesday, November 12th, 2008. It was unanimously decided.

Closed Session Regarding (Claimant, Case Updates and Guidelines Revision)

Jennifer Ogburn moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia that the Board goes into closed meeting for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Board, and consultation with legal counsel employed or retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel regarding pending litigation, case updates and potential revisions to the Program's Guidelines. The motion was seconded by Bob Boyle and passed unanimously.

Jennifer Ogburn moved the adoption of the following resolution:

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

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

Results of Closed Session (Claimant):

Susan Lucas motioned to deny ██████████ request for previous years' (2005-2006) reimbursement for out of state physical therapy expenses because expenses do not meet Program guidelines. Lain O'Ferrall seconded the motion and it passed unanimously.

Results of Closed Session (Guidelines):

Susan Lucas, chair, motioned to adopt the revised guidelines with the following changes:

- delete "or combination of" on page 8 at relatives to relative and guardian to guardian
- delete NOTE bottom page 9
- Attorney's Fees, delete "but does not require"
- add "written" in front of notification and or denial

Lain O'Ferrall seconded the motion and it passed unanimously.

Adjournment:

A motion to adjourn was made by Susan Lucas, Chair, at 3:15pm. It passed unanimously.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for November 12, 2008**

Attendees:

Susan Lucas, MD, Ph.D., Chair
Robert Boyle, MD
Jennifer Ogburn
Dalal Salomon
Ralph Shelman
Gwen Taylor, Esq., MSW

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Executive Assistant
Shirley Ricks, Legislative Affairs Coordinator
Carla Collins, Assistant Attorney General, Office of the Attorney General
Terri Jernigan, Legal Secretary, Office of the Attorney General
Sturgis Kidder

Call to Order:

Susan Lucas, Chair, called the October Board meeting to order at 1:04 pm. Introductions were made.

Minutes:

Dalal Salomon motioned to accept the October Board minutes. Ralph Shelman seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the financial highlights that included the Balance Sheet and the Profit and Loss Report. Program has \$167 million in investments and there are currently 111 active children in the program. George Deebo announced that the program has received a Certificate of Achievement for Excellence in Financial Reporting from The Government Finance Officers Association for its comprehensive annual financial report for fiscal year ended 2007. Board members commended Mrs. Thomas on a job well done. Bob Boyle motioned to accept the October Financial reports. Gwen Taylor seconded the motion and it passed unanimously.

Investment:

Candace Thomas reported to the Board that the Program has \$18 million in unrealized loss for October. The Program's investment consultant has advised to stay steady with funds invested and wait. The next Investment Committee meeting will be held on November 24, 2008. Candace Thomas informed Board members that the Investment Policy was being updated to comply with the Fiduciary Standards review. The updated investment policy was provided to members to review. Ralph Shelman motioned to accept changes to policy. Bob Boyle seconded the motion and it passed unanimously.

Public Comment:

Sturgis Kidder asked the Board if they were preparing a legislative package to present in January. George Deebo responded that the Board did not have anything at present. As new information is received, Shirley Ricks, Legislative Affairs Coordinator, will provide updates to Program staff and Board members.

Closed Session Regarding (Case Updates)

Jennifer Ogburn moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia that the Board goes into closed meeting for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Board, and consultation with legal counsel employed or retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel regarding pending litigation and case updates to the Program's Guidelines. The motion was seconded by Bob Boyle and passed unanimously.

Jennifer Ogburn moved the adoption of the following resolution:

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

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

Director's Report:

George Deebo informed the Board that he was updating the Claimant Handbook with guideline revisions as well as having the handbook translation into Spanish.

George Deebo noted that a Board election would be held during the December Board meeting.

George Deebo stated that the Program's actuary is reviewing the annual actuarial report and will provide a letter with areas of interest and areas that need to be watched. Rob Walling, Pinnacle Actuarial Services, is assisting the program with the Florida actuarial methodology process which is planned to occur in early 2009.

Adjournment:

A motion to adjourn was made by Susan Lucas, Chair, at 1:40 pm. It passed unanimously.

December No Meeting