

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for January 18, 2011**

Attendees:

Susan Riddick-Grisham, RN, Vice-Chair
David Barrett
Lain O'Ferrall
Jennifer Ogburn
Gwen Taylor, Esq., MSW
J. Scott Walters, Esq.

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Claims Manager
Wes Russell, Office of the Attorney General
Carla Collins, Office of the Attorney General

Call to Order:

Susan Riddick-Grisham, RN, Vice-Chair, called the January Board meeting to order at 1:00 pm.

Introductions:

George Deebo, Executive Director, introduced Tanya Williams, new Administrative Assistant to the Board. Board Members and Assistant Attorney General Carla Collins introduced themselves to Tanya Williams and welcomed her to the Program.

Minutes:

Gwen Taylor motioned to accept the December Board minutes as amended. Scott Walters seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the December 2010 financials. The Program has 117 active claimants.

Investment:

The Program has approximately \$273 million in investments as of December 2010. Lain O'Ferrall stated that the Program investments had an 11.2% Rate of Return YTD.

Public Comment:

None.

Closed Session (Legal Advice):

Scott Walters moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia that the Board go into closed meeting for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Board, and consultation with legal counsel employed or retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel regarding: Discussion of records the Virginia Birth-Related Neurological Injury Compensation Program is required to keep confidential pursuant to Virginia Code Section §38.2-5002.2; more specifically, records concerning the deliberations of the Board of Directors in connection with specific claims, as prevented from being disclosed by Virginia Code Section §38.2-5002.2 (iii). The motion was seconded by Lain O'Ferrall, and passed unanimously.

Scott Walters moved the adoption of the following resolution:

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

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

Closed Session:

Scott Walters 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 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 pending litigation. The motion was seconded by Lain O'Ferrall, and passed unanimously.

Scott Walters moved the adoption of the following resolution:

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

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

New Business:

George Deebo, Executive Director, informed the Board of the new employee health insurance plan and the need to assist employees with premium increases of 30 and 20 percent respectively over the last two years. He noted the premium increases were not based on individual usage but on overall market-wide insurer increases. The Board Members were appreciative of the information but determined it best to delegate the authority to make such decisions to the Program's Executive Director and directed that he exercise that delegated authority to make such decisions.

Adjournment:

A motion to adjourn was made by Susan Riddick-Grisham, RN, Vice-Chair, at 3:00 pm. It was seconded by Lain O'Ferrall, and passed unanimously.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for February 8, 2011**

Attendees:

Susan J. Lucas, MD, PhD, Chair
Susan Riddick-Grisham, RN, Vice-Chair
David Barrett
Hope F. Cupit, CPA
McLain O'Ferrall
John W. Seeds, MD
Gwen Taylor, Esq., MSW
J. Scott Walters, Esq.

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Claims Manager
Carla Collins, Office of the Attorney General
Mike Melis, Office of the Attorney General

Call to Order:

Susan J. Lucas, MD, Chair, called the February Board meeting to order at 1:00 p.m.

Introductions:

Introductions were made by all parties in attendance including Board Member who stated their name and the type of seat held, Program staff and visitors.

Minutes:

McLain O'Ferrall motioned to accept the January Board minutes as corrected by Carla Collins. David Barrett seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the January 2011 financials. The Program has 116 active claimants. Hope Cupit motioned to approve the financial report. Susan Riddick-Grisham seconded the motion and it passed unanimously.

Gwen Taylor stated the January Board Meeting Minutes didn't reflect Candace Thomas' announcement of the Program's Liability Insurance being acquired by the Program. Gwen Taylor made the motion to amend the January Minutes to reflect the new liability insurance. Dave Barrett seconded the motion and it passed unanimously.

Investment:

Due to the trend of the market, the Investment Committee decided to reallocate some Program investments. The Program has approximately \$273 million in investments as of December 2010.

Lain O'Ferrall stated that the Program investments had an increase of 4.4% for the 4th quarter and an 11.2% rate of return YTD.

Legislature:

Linda Chenoweth, Legislative Affairs Coordinator, stated SB 1176 was dropped. HB 2170, a bill to amend and reenact § 38.2-5009 of the Code of Virginia passed and is now on its way to the Senate. It's expected to pass there as well. Linda Chenoweth referred to Carla Collins to briefly explain the HB 2170 amendments and reenactments to the Board.

Gwen Taylor reminded the Program the Board needs to be advised in advance of upcoming proposed legislation. Ms. Taylor is requesting management give Board members more notice to legislative meetings in regards to pending legislative in case a Board member wants to be present. Ms. Taylor also requested information pertaining to pending legislative be discussed amongst the Board before any decisions are made on the Board's behalf. George Deebo noted that very often there is little notice of when legislative events will occur. Carla Collins stated the best way to keep up with what's being brought before the General Assembly is to contact the Legislative Aide. By doing this, there is still no guarantee of receiving needed information in a timely manner.

The Board decided a subcommittee, consisting of Dr. Susan Lucas, Scott Walters and Gwen Taylor, be contacted as soon as possible when decisions need to be made on the Board's behalf.

Scott Walters reminded the Board proper public notice, normally three days, must be provided before any board or committee meeting. It also was noted that an individual board member cannot speak for the Board.

Public Comment:

None.

Closed Session (Legal Advice/Case Update):

Scott Walters moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia that the Board go into closed meeting for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Board, and consultation with legal counsel employed or retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel regarding: Discussion of records the Virginia Birth-Related Neurological Injury Compensation Program is required to keep confidential pursuant to Virginia Code Section §38.2-5002.2; more specifically, records concerning the deliberations of the Board of Directors in connection with specific claims, as prevented from being disclosed by Virginia Code Section §38.2-5002.2 (iii). The motion was seconded by Lain O'Ferrall, and passed unanimously.

Scott Walters moved the adoption of the following resolution:

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

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

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

For the first part of this session, Carla Collins excused herself for the presentation made by Morris and Morris. She returned to the closed session once Morris and Morris had left from the closed session to continue with the case updates.

New Business:

George Deebo, Executive Director, reviewed a letter from Pinnacle Actuarial Resources, Inc., with the Board. Per the letter, the Program has enough money in reserves to cover the current costs of all admitted claimants. However, the Program is still considered actuarially unsound.

The following committees were either confirmed for Board members and/or committee members changed:

- The Investment Committee consists of David Barrett, McLain O'Ferrall, Scott Walters and Chair (currently Susan Lucas, MD).
- The Audit Committee consists of Hope Cupit, Scott Walters and Chair (currently Susan Lucas, MD).

Dr. John Seeds requested the Board be reminded of all of the scheduled Committee meetings.

Executive Director's Report:

George Deebo, Executive Director, announced that Program staff had recently ordered a new conference table, and hopefully it would be in place by the March Board Meeting.

Dave Barrett asked how Board members are to respond if approached or contacted by the media. George Deebo responded that it was up to the Board member on how to respond, or to refer all questions from the Media to the Program Staff.

Adjournment:

A motion to adjourn was made by Susan J. Lucas, MD, PhD, Chair, at 3:30 pm. It was seconded by Hope Cupit, and passed unanimously.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for March 8, 2011**

Attendees:

Susan J. Lucas, MD, PhD, Chair
David Barrett
Hope F. Cupit, CPA
McLain O'Ferrall
Jennifer Ogburn
John W. Seeds, MD
Gwen Taylor, Esq., MSW
J. Scott Walters, Esq.

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Claims Manager
Linda Chenoweth, Legislative Affairs Coordinator
Mike Melis, Office of the Attorney General

Call to Order:

Susan J. Lucas, MD, called the March Board meeting to order at 1:00 p.m.

Introductions:

Introductions were made by all parties in attendance including Board Members who stated their name and the type of seat held, Program staff and visitors.

Minutes:

David Barrett motioned to accept the February Board minutes. Hope Cupit seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the February 2011 financials. The Program has 116 active claimants. Dr. Susan Lucas motioned to approve the financial report. Gwen Taylor seconded the motion and it passed unanimously.

Investment:

Lain O'Ferrall stated there's been no change in the Program's investments.

Dr. Susan Lucas stated that the Board thanks those on the Investment Committee (Lain O'Ferrall, David Barrett and J. Scott Walters) for doing a wonderful job.

Legislature:

Linda Chenoweth stated SB 1176 was dropped indefinitely. HB 2170, a bill to amend and reenact § 38.2-5009 of the Code of Virginia passed and awaiting Governor's signature. She also noted that all state legislators are up for re-election this year.

Gwen Taylor thanked Linda Chenoweth for keeping the Board updated and informed.

George Deebo stated Linda Chenoweth has scheduled meetings with several Delegates and legislative aides.

Public Comment:

None.

Closed Session (Claimant Issues):

Dr. Susan Lucas moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia that the Board go into closed meeting for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Board, and consultation with legal counsel employed or retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel regarding: Discussion of records the Virginia Birth-Related Neurological Injury Compensation Program is required to keep confidential pursuant to Virginia Code Section §38.2-5002.2; more specifically, records concerning the deliberations of the Board of Directors in connection with specific claims, as prevented from being disclosed by Virginia Code Section §38.2-5002.2 (iii). The motion was seconded by J. Scott Walters, and passed unanimously.

Dr. Susan Lucas moved the adoption of the following resolution:

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

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

Results of Closed Session (Claimant Issues):

Dr. Susan Lucas motioned to replace [REDACTED] current van with a new one. David Barrett seconded the motion and it passed unanimously.

Dr. Susan Lucas motioned to replace [REDACTED] van with a new one due to the age of [REDACTED] current van. Dr. John Seeds seconded the motion and it passed with one dissenting vote (Scott Walters).

Closed Session (Old Business/Case Update):

Dr. Susan Lucas moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia that the Board go into closed meeting for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Board, and consultation with legal counsel employed or retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel regarding: Discussion of records the Virginia Birth-Related Neurological Injury Compensation Program is required to keep confidential pursuant to Virginia Code Section §38.2-5002.2; more specifically, records concerning the deliberations of the Board of Directors in connection with specific claims, as prevented from being disclosed by Virginia Code Section §38.2-5002.2 (iii). The motion was seconded by J. Scott Walters, and passed unanimously.

Dr. Susan Lucas 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.

New Business:

No new business.

Executive Director's Report:

George Deebo informed the Board the State has hired a new actuarial contractor to evaluate the Program.

A new conference table has been ordered for the Program and should arrive mid-April.

Adjournment:

A motion to adjourn was made by Dr. Susan J. Lucas at 2:15 pm and passed unanimously.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for April 12, 2011**

Attendees:

Susan J. Lucas, MD, PhD, Chair
Susan Riddick-Grisham, RN, BA, Vice-Chair
David Barrett
McLain O'Ferrall
Jennifer Ogburn
John W. Seeds, MD
Gwen Taylor, Esq., MSW
J. Scott Walters, Esq.

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Claims Manager
Linda Chenoweth, Legislative Affairs Coordinator
Carla Collins, Office of the Attorney General
Ann Rostant Jones, Jones & Rostant PC

Call to Order:

Susan J. Lucas, MD, Chair, called the April Board meeting to order at 1:00 p.m.

Introductions:

Introductions were made by all parties in attendance including Board Members, who stated their name and the type of seat held, Program staff and visitors.

Minutes:

Susan Lucas motioned to accept the March Board minutes. David Barrett seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the March 2011 financials. The Program has 116 active claimants. Dr. Susan Lucas motioned to approve the financial report. Susan Riddick-Grisham seconded the motion and it passed unanimously.

Investment:

Lain O'Ferrall stated there's been a very small change, 0.003%, in the Program's investments. The Program's investments are still doing well.

Legislative:

Linda Chenoweth stated Governor McDonnell vetoed the medical malpractice cap increase but legislators overrode his veto. The Board was reminded this is an election year for legislators and some turnover is expected.

Public Comment:

Ann Jones stated she came on behalf of Rebecca Figueroa to discuss the issue of reimbursement for au pair agency fees regarding requests from Ms. Nelson. Ms. Jones noted that au pair agency fees include screening, host family health insurance for au pair and training.

George Deebo noted the Program is set up to pay direct hourly costs for caregivers. General discussion regarding the use of au pairs ensued.

During discussion it was noted that, to the Program's knowledge, only one family is utilizing an au pair. It also was noted that agencies sponsoring au pairs may provide differing benefits for the au pairs.

In regards to why it had taken so long to submit a request for reimbursement Ms. Jones stated she was engaged for representation by Ms. Nelson last November and has been in communication with the Program since then.

Dr. Lucas asked Ann Jones to address the Board about another issue regarding Hershberger (Ms. Macerelli). Ms. Jones stated she wasn't prepared to speak to the Hershberger case, but would do the best she could and noted she believes everyone would like to resolve the issue. Mrs. Hershberger, whom she represents, has given her authority to negotiate the request for reimbursement. General discussion ensued.

Ms. Jones then informed the Board she needed to leave due to another appointment. She gave her contact information to Carla Collins, Assistant Attorney General, and requested that the Board provide her a response at its earliest convenience.

At this point the Board decided move into closed session.

Closed Session (Claimant Issues):

Dr. Susan Lucas moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia that the Board go into closed meeting for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Board, and consultation with legal counsel employed or retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel regarding: Discussion of records the Virginia Birth-Related Neurological Injury Compensation Program is required to keep confidential pursuant to Virginia Code Section §38.2-5002.2; more specifically, records concerning the deliberations of the Board of Directors in connection with specific claims, as prevented from being disclosed by Virginia Code Section §38.2-5002.2 (iii). The motion was seconded by Lain O'Ferrall, and passed unanimously.

Dr. Susan Lucas 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.

Carla Collins excused herself from closed session during the first portion of the session. She returned to the closed session once Old Business was completed.

Results of Closed Session (Claimant Issues):

Dr. Susan Lucas, as a business decision, moved that the Board authorize reimbursement to [REDACTED] of actual costs for medically-necessary care at hourly rates up to but not to exceed OES rates minus the \$22,183.00 already paid by the Program and pursuant to other applicable current Program Guidelines. Lain O'Ferrall seconded the motion and it passed with one dissenting vote (Dr. John Seeds).

Dr. Susan Lucas motioned to table [REDACTED] issue. Susan Grisham seconded the motion and it passed unanimously.

Closed Session (Old Business/Case Update):

Dr. Susan Lucas moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia that the Board go into closed meeting for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Board, and consultation with legal counsel employed or retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel regarding: Discussion of records the Virginia Birth-Related Neurological Injury Compensation Program is required to keep confidential pursuant to Virginia Code Section §38.2-5002.2; more specifically, records concerning the deliberations of the Board of Directors in connection with specific claims, as prevented from being disclosed by Virginia Code Section §38.2-5002.2 (iii). The motion was seconded by Dr. John Seeds, and passed unanimously.

Dr. Susan Lucas 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.

New Business:

Gwen Taylor suggested the Board needs to create a policy for nursing alternatives. George the staff will begin work on the issue.

Executive Director's Report:

George Deebo informed the Board the Program now has an updated server which was installed by Hermetic Networks.

Adjournment:

A motion to adjourn was made by Dr. Susan J. Lucas at 3:22 pm and passed unanimously.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for May 10, 2011**

Attendees:

Susan Riddick-Grisham, RN, Vice-Chair
David Barrett
Jennifer Ogburn
John W. Seeds, MD
Gwen Taylor, Esq., MSW
J. Scott Walters, Esq.

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Claims Manager
Linda Chenoweth, Legislative Affairs Coordinator
Carla Collins, Office of the Attorney General

Call to Order:

Susan Riddick-Grisham, RN, Vice-Chair, called the May Board meeting to order at 1:00 p.m.

Minutes:

David Barrett motioned to accept the April Board minutes. Dr. John Seeds seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the April 2011 financials. The Program has 117 active claimants. The Program's audit has been completed. The final report will be reviewed at the Audit Committee meeting in June.

Investment:

Candace Thomas stated that the Program investments had an increase of 6.06% YTD and an increase of 2.71% for the month. Due to the trend of the market, the Investment Committee decided to reallocate some Program investments.

Legislature:

Linda Chenoweth stated the redistricting proposal has been given to the Justice Department and the state legislators are waiting for it to be approved.

Public Comment:

George Deebo informed the Board Ms. Ann Jones could not attend and therefore the agenda item she was to address would be moved to next month's agenda.

Closed Session (Case Update):

Scott Walters 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 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 David Barrett, and passed unanimously.

Scott Walters moved the adoption of the following resolution:

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

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

New Business:

George Deebo informed the Board the Program is in the process of researching payment methodologies for au pair caregiver situations and hopes to have more information for the June meeting.

Executive Director's Report:

George Deebo told the Board the Program was visited by three individuals from Japan inquiring about the Program. There were some language barriers, but the meeting seemed to be successful.

Adjournment:

A motion to adjourn was made by Gwen Taylor at 2:25 pm. It was seconded by Dr. John Seeds, and passed unanimously.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for June 14, 2011**

Attendees:

Susan J. Lucas, MD, PhD, Chair
David Barrett
McLain O'Ferrall
Jennifer Ogburn
John W. Seeds, MD
Gwen Taylor, Esq., MSW

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Claims Manager
Linda Chenoweth, Legislative Affairs Coordinator
Carla Collins, Office of the Attorney General

Call to Order:

Susan J. Lucas, MD, PhD, Chair, called the June Board meeting to order at 1:00 p.m.

Minutes:

David Barrett motioned to accept the May Board minutes. Dr. John Seeds seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the May 2011 financials. The Program has \$284 million in investments. There are currently 119 active claimants. The June Audit Committee meeting has been rescheduled for July. The final audit report will be reviewed at that time. David Barrett motioned to accept the May financial report. Dr. John Seeds seconded the motion and it passed unanimously.

Investment:

McLain O'Ferrall stated the Program's investments had a decrease of -0.62% MTD 2.06% QTD return with a 5.39% YTD return for the month.

Legislature:

Linda Chenoweth stated changes are being made within the state legislators due to it being an election year. She will keep the Board updated.

Public Comment:

None

Closed Session (Case Update/Claimant Issues):

Dr. Lucas 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 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 David Barrett, and passed unanimously.

Dr. Lucas 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.

For the second part of this session, Carla Collins excused herself for the Morris & Morris update given by George Deebo. She returned to the closed session after his conclusion to continue with the case updates.

Results of Closed Session (Claimant Issues):

Dr. Lucas moved the Board clarify that it has instructed the Program staff to process future requests for reimbursement for au pair attendant care for claimant [REDACTED] by applying the same methodology approved at the April Board meeting. Motion was seconded by Lain O'Ferrall, and passed unanimously.

Regarding the [REDACTED] request for a specialized bed, Dr. Lucas moved that Program's counsel have a conference call with all parties of interest regarding this request. In addition, the Board authorizes Director George Deebo to accept or deny this claim based upon the additional information obtained. Motion was seconded by David Barrett, and passed unanimously.

Other:

The Board excused staff members and legal counsel to discuss the personnel issue.

Staff members and legal counsel returned once the personnel issue was concluded.

New Business:

None

Executive Director's Report:

George Deebo stated three new Board members have been appointed by the Governor to replace Susan Riddick-Grisham, Jennifer Ogburn and Gwen Taylor. At this time their identities are unknown. McLain O'Ferrall spoke on behalf of the Board to express their appreciation of the excellent jobs Jenny, Sue and Gwen have done while serving on the Board.

Adjournment:

A motion to adjourn was made by Susan J. Lucas, MD, PhD, Chair, at 3:05 p.m., and passed unanimously.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for July 12, 2011**

Attendees:

Susan J. Lucas, MD, PhD, Chair
David Barrett
Hope Cupit
Francoise Mullen
McLain O'Ferrall
John W. Seeds, MD
A. Lee Talley, Jr.

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Claims Manager
Linda Chenoweth, Legislative Affairs Coordinator
Carla Collins, Office of the Attorney General

Call to Order:

Susan J. Lucas, MD, PhD, Chair, called the July Board meeting to order at 1:00 p.m.

Introductions:

Introductions were made by all parties in attendance including Board Members who stated their name and the type of seat held and Program staff.

Minutes:

David Barrett motioned to accept the June Board minutes. Hope Cupit seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the June 2011 financials. One new claimant was admitted into the Program in June. There are currently 120 active claimants. The Program has \$282 million in investments. Ms. Thomas asked the Board to please note a small correction under General Notes on Page 1 of the Financial Report. Date should be 6/30/11 and not 5/31/11. The Audit Committee meeting will be held July 20, 2011 at 11:30 a.m. Everyone is welcomed to attend.

Investment:

McLain O'Ferrall stated the Program's investments had an increase of 1.22% QTD 4.52% YTD return for the month. An error was found in the MTD calculations and is currently being corrected. The updated investments report will be emailed to all Board Members.

Legislature:

None

Public Comment:

None

Closed Session (Case Update):

Dr. Lucas 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 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 pending litigation and case updates; 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 Lee Talley, and passed unanimously.

Carla Collins, Assistant Attorney General, excused herself for the Morris & Morris update. Ms. Collins returned once the Morris & Morris representative concluded and the Board excused him from the meeting.

Dr. Lucas 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.

New Business:

None

Executive Director's Report:

The Executive Director reminded the Board a meeting will not be held in August. David Barrett inquired about the third new Board member. Executive Director Deebo stated the third new member is Neal Schuwolf, an attorney from the Tidewater Area. Mr. Schuwolf was unable to attend today but expects to attend in September.

Adjournment:

A motion to adjourn was made by A. Lee Talley, Jr., at 2:25 p.m. The motion was seconded by Dr. John W. Seeds and passed unanimously.

August No Meeting

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for September 13, 2011**

Attendees:

Susan J. Lucas, MD, PhD, Chair
David Barrett
Hope Cupit, CPA
Francoise Mullen
McLain O'Ferrall
Neal Schulwolf, Esq.
A. Lee Talley, Jr.
J. Scott Walters, Esq.

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Claims Manager
Linda Chenoweth, Legislative Affairs Coordinator
Carla Collins, Assistant Attorney General III, Office of the Attorney General

Call to Order:

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

Introductions:

All attendees, including Board Members and Program staff, introduced themselves. The Board Members each described the type of seat for which he or she was appointed to serve.

Minutes:

Ms. Cupit motioned to accept the July Board minutes. Mr. Barrett seconded the motion and it passed unanimously.

Finance:

Ms. Thomas reviewed the August 2011 financials. Two new claimants were admitted into the Program during July and August. There are currently 122 active claimants. The Program has \$268 million in investments. Mr. O'Ferrall motioned to accept the August financial report. Mr. Talley seconded the motion and it passed unanimously.

Ms. Cupit suggested the Board commend Mr. Deebo and Ms. Thomas for their hard and thorough work for the Audit Committee. The Board thanked Mr. Deebo and Ms. Thomas for doing a wonderful job.

Investment:

Mr. O'Ferrall stated the Program's investments had a decreased return of 3.38% MTD and an increased return of 0.71% YTD for the month. Mr. O'Ferrall informed the Board the Investment Committee met earlier today and the minutes will be sent to each Board Member.

Legislature:

None

Public Comment:

Mr. Deebo informed the Board a claimant's attorney who wishes to address the Board could not attend. Therefore, that agenda item will be moved to next month's agenda.

Closed Session (Case Update/Old Business):

Dr. Lucas 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 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 pending litigation and case updates, including the 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 J. Scott Walters, and passed unanimously.

Carla Collins, Assistant Attorney General, excused herself for the Morris & Morris update given by George Deebo, Executive Director, during the second part of this session. Ms. Collins returned to the room after Mr. Deebo concluded his update.

Upon the conclusion of the Closed Session, Dr. Lucas 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.

The Board members were polled and all certified the motion.

Results of Closed Session (Old Business):

Dr. Lucas moved the Board to authorize the extension of cash controls to continue litigation. The Motion was seconded by Hope Cupit, and passed unanimously.

New Business:

None

Executive Director's Report:

Mr. Deebo, Executive Director, requested the Board examine 24-hour care for claimants. Claimants and parents/guardians are getting older and this type of care is becoming more regularly requested by families. The Program currently has 8 to 10 claimants who receive 24-

hour care. Ms. Cupit inquired about the possibility of claimants being admitted into assisted living facilities. Mr. Deebo said admission is possible but no one has requested it. Placing claimants in such facilities may result in increased costs.

Adjournment:

A motion to adjourn was made by Mr. Talley, at 2:30 p.m. The motion was seconded by Mr. Barrett and passed unanimously.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for October 11, 2011**

Attendees:

J. Scott Walters, Esq. Acting-Chair
David Barrett
Hope Cupit, CPA
Francoise Mullen
McLain O'Ferrall
Neal Schulwolf, Esq.
John Seeds, MD
A. Lee Talley, Jr.

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Claims Manager
Linda Chenoweth, Legislative Affairs Coordinator
Carla Collins, Assistant Attorney General III, Office of the Attorney General
Abram J. Pafford, Esq., Pafford Lawrence & Ross PLLC
Jeffrey Still, Parent

Call to Order:

J. Scott Walters, Acting-Chair, called the October Board meeting to order at 1:00 p.m.

Introductions:

All attendees, including Board Members, Program staff and guests, introduced themselves. The Board Members each described the type of seat for which he or she was appointed to serve.

Minutes:

Mr. Walters requested Board members to advise whether there were any requests for revisions or objections to the September Board minutes. Hearing none, the September Board minutes were adopted as presented.

Finance:

Ms. Thomas reviewed the September 2011 financials. Three new claimants were admitted into the Program during September. There are currently 125 active claimants. The Audit Committee meeting will be held on November 8, 2011 at 11:00 a.m., followed by the Investment Committee meeting at 11:30 a.m. Ms. Cupit made the motion to approve the financial report. Dr. Seeds seconded the motion and it passed unanimously.

Mr. Deebo announced the 2012 Assessment letters will be mailed to physicians and hospitals by the end of the month. Second and third mailings for 2011 have already been mailed.

Investment:

Mr. O’Ferrall stated the Program’s investments had a decreased return of 4.97% MTD and a decreased return of 4.19% YTD for the month. Mr. O’Ferrall informed the Board the Investment Committee will review the Program’s portfolio at the Committee meeting held in November.

Legislature:

Ms. Chenoweth informed the Board that only 14 of the 40 Senate seats will be uncontested in the upcoming election. The Program is not seeking any legislation this year. The Board will be informed of any proposed legislation which may affect the Program.

Public Comment:

Mr. Pafford, attorney for Mr. Still and Cailey Still, presented documentation to the Board regarding the SleepSafe Bed for Cailey. Mr. Pafford discussed Cailey’s medical needs and her treating healthcare providers’ assessments regarding how the bed would meet those needs. Mr. Pafford and Mr. Still thanked the Board for their time and requested that counsel for the Board advise them of the Board’s decision after the meeting.

Closed Session (Claimant Issues):

Mr. Barrett moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia that the Board go into closed meeting for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Board, and consultation with legal counsel employed or retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel regarding pending litigation and case updates, including the 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 Mr. Talley, and passed unanimously.

Upon the conclusion of the Closed Session, Mr. Barrett 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.

The Board members were polled and all certified the motion.

Results of Closed Session (Claimant Issues):

Mr. O’Ferrall made the motion the Board reimburse or purchase a full-sized Sleep Safe Bed for [REDACTED]. The motion was seconded by Mr. Barrett, and passed unanimously.

Mr. Talley made the motion to deny [REDACTED] request for the hands-free SYNC system and back-up camera installation on the Program provided van. The motion was seconded by Mr. Barrett, and passed unanimously.

Closed Session (Case Updates):

Ms. Cupit 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 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 Mr. O’Ferrall, and passed unanimously.

Ms. Cupit 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.

The Board members were polled and all certified the motion.

New Business:

Mr. Deebo, Executive Director, requested the Board review and consider 24-hour care for claimants. Claimants and parents/guardians are getting older and this type of care is becoming more regularly requested by families. The Program currently has 8 to 10 claimants who receive 24-hour care. Ms. Cupit inquired about the possibility of claimants being admitted into assisted living facilities. Mr. Deebo said admission is possible but no one has requested it. Placing claimants in such facilities may result in increased costs.

Executive Director's Report:

Mr. Deebo, Executive Director, informed the Board New York has established the Neurologically Impaired Infant Fund. It is similar to the Virginia program in that it provides for similar types of injury however is funding through state appropriations.

Adjournment:

Meeting was adjourned by Mr. Walters, Acting Chair, at 3:00 p.m.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for November 8, 2011**

Attendees:

Susan Lucas, MD, PhD, Chair
David Barrett
Hope Cupit, CPA
Francoise Mullen
McLain O'Ferrall
Neal Schulwolf, Esq.
A. Lee Talley, Jr.

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Claims Manager
Linda Chenoweth, Legislative Affairs Coordinator
Carla Collins, Assistant Attorney General III, Office of the Attorney General

Call to Order:

Susan Lucas, MD, PhD, Chair, called the November Board meeting to order at 1:00 p.m.

Minutes:

Mr. Barrett motioned to accept the October Board minutes. Mr. O'Ferrall seconded the motion and it passed unanimously.

Dr. Lucas thanked Mr. Walters, in his absence, for acting as Chair during the October Board meeting.

Finance:

Ms. Thomas reviewed the October 2011 financials. One new claimant was admitted into the Program during October. There are currently 126 active claimants. The Program has had 13 admissions year-to-date. Mr. O'Ferrall inquired about the claimants' geographical locations. Ms. Thomas stated the admitted claimants' current locations are statewide as well as out-of-state. Claimants must be born in a participating hospital or delivered by a participating physician in Virginia to be admitted into the Program. Ms. Cupit made the motion to approve the financial report. Mr. O'Ferrall seconded the motion and it passed unanimously.

Investment:

Mr. O'Ferrall stated the Investment Committee met earlier today and is pleased to report the Program is ahead of targeted benchmarks. The Committee will review any potential fund

manager changes in February. The Program's investments had an increased return of 1.6% YTD for the month.

Legislature:

Ms. Chenoweth informed the Board that only 26 of the 40 Virginia Senate seats will be contested in today's election. The Board was reminded the Program is not seeking any legislation this year. However, if there is any proposed legislation that may affect the Program, the Board will be informed. Mr. Deebo stated the Program is generally not notified prior to the introduction of any legislation that will be considered by the General Assembly; but the pre-filing period ends in December.

Public Comment:

None

Closed Session (Claimant Issues/Case Updates/Old Business):

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

For the final part of this session, Carla Collins, Assistant Attorney General, excused herself for the Old Business in regards to the legal update given by George Deebo, Executive Director. Ms. Collins returned to the room after Mr. Deebo concluded the update.

Upon the conclusion of the Closed Session, Mr. Barrett 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.

The Board members were polled and all certified the motion.

Results of Closed Session (Claimant Issues):

Dr. Lucas, based upon [REDACTED] medical needs, made the motion the Board approve [REDACTED] request for a van equipped with a TAS (Turning Automotive Seating) "Turny" seat. The motion was seconded by Mr. Talley, and passed unanimously.

New Business:

Dr. Lucas requested the Board members submit nominations for officers within the next two weeks to Mr. O'Ferrall via email.

Mr. Deebo reviewed the actuarial report completed by Pinnacle Actuarial Resources. This report is based upon a conservative methodology, but the conclusions rendered are not as conservative as those contained in the reports completed by the former actuary.

Executive Director's Report:

Mr. Deebo informed the Board that more research is being conducted concerning 24-hour care for claimants. The Program currently has two claimants housed in 24-hour care facilities.

Dr. Lucas recommended the Board request [REDACTED], an admitted claimant's parent, research the possibilities for guardianship/care available for an admitted claimant upon the demise of his/her parent(s) and the procedures/resources which would be necessary to implement each alternative.

Adjournment:

A motion to adjourn was made by Mr. McLain O'Ferrall, at 2:20 p.m. The motion was seconded by Mr. David Barrett and passed unanimously.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for December 13, 2011**

Attendees:

Susan Lucas, MD, PhD, Chair
David Barrett
Hope Cupit, CPA
Francoise Mullen
McLain O'Ferrall
Neal Schulwolf, Esq.
John W. Seeds, MD
A. Lee Talley, Jr.
J. Scott Walters, Esq.

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Claims Manager
Linda Chenoweth, Legislative Affairs Coordinator
Carla Collins, Assistant Attorney General III, Office of the Attorney General
Tanya Williams, Administrative Assistant

Call to Order:

Susan Lucas, MD, PhD, Chair, called the December Board meeting to order at 1:00 p.m.

Minutes:

Ms. Cupit motioned to accept the November Board minutes with Ms. Williams, Administrative Assistant added as being present. Mr. Talley seconded the motion and it passed unanimously.

Finance:

Ms. Thomas reviewed the November 2011 financials. There were no new claimants during the month of November. Ms. Thomas informed the Board that the Conflict of Interest forms for each Board member are now due. Forms must be turned in to her by December 30, 2011.

Dr. Lucas received notification from the Government Finance Officers Association that the Program has been awarded the Certificate of Achievement for Excellence in Financial Reporting, which is the highest form of recognition in governmental accounting and financial reporting. An Award of Financial Reporting Achievement has been awarded to Candace Thomas for her preparation of the financial report. Ms. Thomas was congratulated by the Board.

Investment:

Mr. O'Ferrall stated the Program's investments remain unchanged for the month.

Legislature:

Ms. Chenoweth informed the Board the Virginia Senate is evenly divided. Lt. Gov. Bill Bolling is requesting his vote be the deciding vote. Other General Assembly members are opposed and the matter will go before the Court.

Public Comment:

None

Closed Session (Old Business/Claimant Issues/Housing):

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

Upon the conclusion of the Closed Session, Dr. Lucas 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.

The Board members were polled and all certified the motion.

For the initial part of this session, Carla Collins, Assistant Attorney General, was absent.

Carla Collins stated she is reviewing housing benefit issues and still needs some information from the Program. Mr. Deebo stated the information would be provided as soon as possible.

Results of Closed Session (Old Business):

Dr. Lucas made the motion the Board authorize payment for continuing legal services for the litigation being handled by Morris & Morris through the trial. The motion was seconded by Mr. Talley, and passed unanimously.

Results of Closed Session (Claimant Issues):

Dr. Lucas made the motion to reimburse for the un-receipted, yet documented, pre-admission funeral expenses requested by the █████ family. The motion was seconded by Dr. Seeds, and passed unanimously.

Dr. Lucas moved to pay \$1200 in funeral expenses. There were two in favor and seven opposed. The motion failed.

Dr. Lucas made the motion to pay all submitted un-receipted funeral expenses except \$98.45 for fuel. The motion passed with one opposed (Mr. Walters).

New Business:

Board Elections were held. Mr. Barrett nominated Dr. Susan Lucas for re-election for the position as Chair of the Board. Ms. Cupit seconded the motion and it passed unanimously. Mr. Talley nominated Mr. Scott Walters for the position of Vice Chair of the Board. Mr. Barrett seconded the motion and it passed unanimously.

Executive Director's Report:

Mr. Deebo informed the Board the revised Program Handbooks have arrived. Each Board Member was given a handbook for their records. Mr. Schulwolf asked whether there were any significant modifications. Mr. Deebo stated there are no significant modifications and that the changes are for clarity and informational purposes.

Adjournment:

Meeting was adjourned by Dr. Lucas, Chair at 2:55 p.m.