

**Virginia Birth-Related Neurological Injury Compensation Program  
Board of Director's Meeting  
Minutes for January 8, 2013**

**Attendees:**

J. Scott Walters, Esq., Chair  
Neil C. Schulwolf, Esq., Vice-Chair  
David Barrett  
Hope Cupit, CPA  
Francoise Mullen  
Vanessa S. Rakestraw, Ph.D., CRC  
John W. Seeds, MD

**Also Present:**

George Deebo, Executive Director  
Candace Thomas, Deputy Director  
Angela Conley, Claims Manager  
Carla Collins, Assistant Attorney General III, Office of the Attorney General  
Robert J. Walling III, FCAS, MAAA (via Skype)  
Tanya Williams, Administrative Assistant

**Call to Order:**

J. Scott Walters, Chair, called the January Board meeting to order at 10:05 a.m.

**Minutes:**

The December Board Minutes were approved by acclamation.

**Finance:**

Ms. Thomas reviewed the December 2012 financials with the Board. The Program has 133 active claimants.

Mr. Walters asked Ms. Thomas for an update on the Program's annual collection of assessments. Ms. Thomas stated the majority of the assessments were received in December, but more are expected in January.

**Investment:**

Mr. Barrett stated the Investment Committee had a very thorough meeting last month. The Program is at an all-time high in its investments. Compared to December of 2011, the Fund's investments had an increase of 11.53% year-to-date. CapGroup Advisors, LLC is managing the Program's portfolio well.

**Audit:**

Ms. Cupit stated the Audit Committee met earlier today with KPMG, LLP. Regulations are the same, with the exception of a new GASB (Governmental Accounting Standards Board). The GASB 63, the Statement of net assets is going to be net position, was brought to the Committee's attention. It will all be explained in the report that will be issued to the Board.

Mr. Deebo informed the Board KPMG will be in the Program's office completing the audit for one week in January and four weeks in April.

**Legislative:**

Mr. Deebo informed the Board that there have been many bills introduced, but nothing related to the Program at this time. Mr. Walters reminded the Board this year consists of a short session and everyone should pay close attention to the new taxes/fees bills.

Mr. Barrett requested Mr. Deebo invite Ms. Sue Rowland to the next Board meeting for introductions. Mr. Schulwolf inquired of Ms. Rowland's fee for her services. Mr. Deebo informed the Board her fee is a flat fee of \$1,000 for monitoring. He reminded the Board if any future bills are introduced involving the Program he will notify Board members.

**Public Comment:**

None

**Special Training and Information:**

At this time Mr. Walling joined the meeting via video conference (Skype). Mr. Walling presented the Program's actuarial analysis for 2012 and answered questions for the Board. Once all questions were answered, Mr. Walling invited the Board to contact him in the future with any questions they may have and the video conference concluded.

Ms. Collins reviewed FOIA with the Board and also reminded the Board the law requires a copy of FOIA be given to each new Board member upon his/her appointment and it is reviewed every two years.

**Closed Session (Case Updates):**

Ms. Cupit 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 regarding pending litigation. The motion was seconded by Mr. Barrett, and passed unanimously.

Upon the conclusion of the Closed Session, 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.

**Results of Closed Session (Claimant Issues):**

The Board decided to request reconsideration of a specific portion of the language of the award granted regarding Claimant B-11-10.

**Executive Director's Report:**

Mr. Deebo reminded the Board to please feel free to ask any actuarial and FOIA questions.

**Adjournment:**

Meeting was adjourned by Mr. Walters, Chair, at 12:03 p.m.

**Virginia Birth-Related Neurological Injury Compensation Program  
Board of Director's Meeting  
Minutes for February 12, 2013**

**Attendees:**

J. Scott Walters, Esq., Chair  
Neil C. Schulwolf, Esq., Vice-Chair  
David Barrett  
Hope Cupit, CPA  
Francoise Mullen  
Vienne Murray, MD  
Vanessa S. Rakestraw, Ph.D., CRC  
John W. Seeds, MD

**Also Present:**

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

**Call to Order:**

J. Scott Walters, Chair, called the January Board meeting to order at 10:05 a.m.

**Minutes:**

After review Dave Barrett moved to accept the January Board minutes, John Seeds seconded the motion and it passed unanimously.

**Finance:**

Candace Thomas reviewed the January 2012 financials with the Board and they were accepted by acclamation.

**Investment:**

Mr. Barrett stated that as of the end of January 2013 the reserve fund was \$333,406,400.

**Legislative:**

George Deebo informed the Board that due to the busy schedule of the ongoing General Assembly, the Program's legislative consultant, Sue Rowland, would not be able to attend today's meeting. She will however provide a written update and gladly attend a meeting after this legislative session is completed.

**Public Comment:**

None

**Closed Session (Case Updates):**

Vienne Murray 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 regarding pending litigation. The motion was seconded by Mr. Barrett, and passed unanimously.

Upon the conclusion of the Closed Session, Dr. Murray 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):**

The Board requested the Executive Director contact ██████████ and request additional documentation prior to any further consideration of this request.

**Executive Director's Report:**

George Deebo noted that year end spending reports will soon be sent to all claimants and samples of the report will be provided at the next meeting.

**Adjournment:**

Meeting was adjourned by Mr. Walters, Chair, at 12:03 p.m.

**Virginia Birth-Related Neurological Injury Compensation Program  
Board of Director's Meeting  
Minutes for March 12, 2013**

**Attendees:**

J. Scott Walters, Esq., Chair  
Neil C. Schulwolf, Esq., Vice-Chair  
David Barrett  
Hope Cupit, CPA  
Francoise Mullen  
Vienne Murray, MD  
Vanessa S. Rakestraw, Ph.D., CRC  
John W. Seeds, MD  
Arthur Lee Talley, Jr.

**Also Present:**

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

**Call to Order:**

J. Scott Walters, Chair, called the March Board meeting to order at 10:05 a.m.

**Minutes:**

After brief discussion, the February Board minutes were motioned to be accepted with revisions by Hope Cupit and Dave Barrett seconded the motion and it passed unanimously.

**Finance:**

Candace Thomas reviewed the March 2013 financials with the Board and they were accepted by acclamation. Program has 134 active claimants. Candace Thomas pointed out that January 2013 investments were \$334 million in comparison to \$326 million in January 2012.

**Investment:**

Mr. Barrett reviewed the February 2013 Monthly Performance Report stating asset allocation was competitive and monthly report showed an increase of 2.5% to the portfolio.

**Legislative:**

George Deebo informed the Board that the General Assembly session had ended and very little if anything would affect the Program.

**Public Comment:**

None

**Closed Session (Case Updates):**

Hope Cupit 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 John Seeds, MD, and passed unanimously.

Upon the conclusion of the Closed Session, Hope 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.

**Results of Closed Session (Pending Litigation/Claimant Issues):**

The Board motioned to approve negotiations of settlement amount for the fees and costs petition of [REDACTED] with opposing counsel by Carla Collins, Assistant Attorney General. Motion was seconded by Dave Barrett and it passed unanimously.

The Board motioned to approve negotiations of settlement amount for the fees and costs petition of [REDACTED] with opposing counsel by Carla Collins, Assistant Attorney General. Motion was seconded by Lee Talley and it passed unanimously.

**Executive Director's Report:**

George Deebo announced the new hire of Janice Cox as the Program's Administrative Assistant.

**Adjournment:**

Meeting was adjourned by J. Scott Walters, Chair, at 11:20 a.m.

**Virginia Birth-Related Neurological Injury Compensation Program  
Board of Director's Meeting  
Minutes for April 9, 2013**

**Attendees:**

J. Scott Walters, Esq., Chair  
David Barrett  
Hope Cupit, CPA  
Francoise Mullen  
Vienne Murray, MD  
Vanessa S. Rakestraw, Ph.D., CRC

**Also Present:**

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

**Call to Order:**

J. Scott Walters, Chair, called the April Board meeting to order at 10:15 a.m.

**Minutes:**

The March Board minutes were motioned to be accepted with revisions by Carla Collins. Hope Cupit seconded the motion and it passed unanimously.

**Finance:**

There was nothing unusual to report on the March 2013 financials and they were accepted by acclamation. Program has 134 active claimants. Candace Thomas pointed out that January 2013 investments were \$334 million in comparison to \$326 million in January 2012.

**Investment:**

Dave Barrett reviewed the March 2013 Monthly Performance Report stating that the month was strong with an increase over three months of 3.7% to the portfolio.

**Public Comment:**

None

**Closed Session (Case Updates):**

Vanessa Rakestraw 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 Vienne Murray, and passed unanimously.

Upon the conclusion of the Closed Session, Vanessa Rakestraw 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**

George Deebo reviewed an Analysis of Nursing Cost report showing the comparison of the three types of nursing services that are used for providing care. The report shows an increase of 12% over the last year of family members being reimbursed as caregivers.

**Executive Director's Report:**

None.

**Adjournment:**

Meeting was adjourned by J. Scott Walters, Chair, at 10:55 a.m.

May No Meeting

**Virginia Birth-Related Neurological Injury Compensation Program  
Board of Director's Meeting  
Minutes for June 11, 2013 - Approved**

**Attendees:**

J. Scott Walters, Esq., Chair  
David Barrett  
Hope Cupit, CPA  
Francoise Mullen  
Vanessa S. Rakestraw, Ph.D., CRC  
Neal Schulwolf, Esq., Vice-Chair  
John Seeds, MD

**Also Present:**

George Deebo, Executive Director  
Candace Thomas, Deputy Director  
Angela Conley, Claims Manager  
Carla Collins, Assistant Attorney General III, Office of the Attorney General  
Ann Jones, Esq.

**Call to Order:**

J. Scott Walters, Chair, called the June Board meeting to order at 10:10 a.m.

**Minutes:**

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

**Finance:**

Candace Thomas reviewed the financials and reported that the Program has 134 active claimants as of the end of May. The audit has been completed and the Comprehensive Annual Financial Report (CAFR) will be reviewed next month by the Audit Committee. The financials were accepted by acclamation. John Seeds, MD, was appointed to the Audit Committee.

**Investment:**

A brief Investment Committee meeting was held prior to the Board meeting. The Committee met to reallocate investments to rebalance funds in accordance with the Investment Policy. David Barrett reported that YTD growth was up 4.6% through May. This percent on return is very good as it compares to the current market place conditions. A complete review of investments will be reported at the September Board meeting.

**Public Comment:**

Ann Jones, Esq. of Jones and Rostant P. C., presented information regarding family caregiving hours as a pre-award expense.

**Closed Session (Case Updates and Claimant Issues):**

In accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia, Francoise Mullen moved 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 probably 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). Motion was seconded by Neal Schulwolf, Vice-Chair.

**Certification**

Upon the conclusion of the closed session, Francoise Mullen 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 individually and each certified the motion.

**Results of Closed Session (Claimant Issues):**

Claimant 1: A motion to deny the request for a portable ramp [REDACTED] based on a duplication of benefits. Francoise Mullin seconded the motion and it passed with one dissenting vote.

Claimant 2: A motion to authorize payment of the requested amount in lieu of litigation [REDACTED]. The motion was seconded by Hope Cupit and it passed unanimously.

Claimant 3: A motion to authorize reimbursement related solely to the portion of pre-admission health insurance premiums attributable to the admitted infant claimant's coverage solely in lieu of litigation and subsequent to the receipt of additional information requested by the Program [REDACTED]. The motion was seconded by Neal Schulwolf, Vice-Chair, and passed unanimously.

### **New Business**

The Board was notified that the legislative person for the Program will be at next month's Board meeting.

### ***Memo of Understanding***

Executive Director George Deebo and Assistant Attorney General Carla Collins reviewed the renewal of the Memo of Understanding between the Office of the Attorney General and the Program. A motion was made to approve the contract and authorize Executive Director George Deebo to endorse the contract and accept its terms and conditions. The motion was seconded by Neal Schulwolf, Vice-Chair, and passed unanimously.

### ***Personnel***

Upon the Board's request, Executive Director Deebo, Assistant Attorney General Collins, and Program staff excused themselves from the room for this portion of the meeting.

In accordance with the provisions of Sections 2.2-3711 (A)(7) and 2.2-3711 (A)(1) of the Code of Virginia, Scott Walters moved 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 probably 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 a personnel matter pursuant to Virginia Code § 2.2-3711(A)(1). The motion was seconded by John Seeds, MD.

### **Certification**

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 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 motion was accepted by acclamation.

### **Executive Director's Report:**

None.

### **Adjournment:**

Meeting was adjourned by J. Scott Walters, Chair, at 11:55 a.m.

**Virginia Birth-Related Neurological Injury Compensation Program  
Board of Director's Meeting  
Minutes for July 9, 2013 - Final**

**Attendees:**

Hope Cupit, CPA  
Francoise Mullen  
Vanessa S. Rakestraw, Ph.D., CRC  
Neal Schulwolf, Esq., Vice-Chair  
John Seeds, MD

**Also Present:**

George Deebo, Executive Director  
Candace Thomas, Deputy Director  
Angela Conley, Claims Manager  
Carla Collins, Assistant Attorney General III, Office of the Attorney General  
Sue Rowland, Owner, SR Consulting, Inc.  
Donna Craver, Partner, KPMG  
Kim Edwards, Senior Manager, KPMG

**Call to Order:**

Neal Schulwolf, Vice-Chair, called the July Board meeting to order at 10:35 a.m.

**Minutes:**

Dr. John Seeds moved to accept the June Board minutes with revisions provided by Assistant Attorney General Carla Collins. Hope Cupit seconded the motion and it passed unanimously.

**Finance:**

Candace Thomas reviewed the financials and reported that a new claimant was accepted into the Program in June. The Program now has 135 active claimants as of the end of June. Neal Schulwolf, Vice-Chair, noted acceptance of the financials as presented.

**Investment:**

Candace Thomas reported that the Investment Fund was down 1.9% as of June 30<sup>th</sup> and increased 2.6% YTD. All investments are within the investment range. Bonds and equities effectively went down due to a slow-down in the money supply by the Federal Reserve plus a downturn in foreign markets. Investment updates were accepted by Neal Schulwolf, Vice-Chair, as given. Ms. Thomas also reported that \$331 million is in the reserve investment fund.

**Public Comment:**

None.

**Closed Session (Case Updates):**

In accordance with the provisions of Section 2.2-3711 (A)(7) of the Code of Virginia, Neal Schulwolf, Vice-Chair, moved 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.

**Certification**

Upon the conclusion of the closed session, Neal Schulwolf, Vice-Chair, 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 individually and each certified the motion.

**New Business**

Executive Director George Deebo introduced Sue Rowland with SR Consulting, Inc., a private consultant. Ms. Rowland provided the Board with her professional background and proceeded to discuss the Health Care Reform Act and Medicaid expansion that may impact the Program. Ms. Rowland will continue to inform the Board on state and federal regulations. She will also keep the Board abreast of the information concerning newly-elected General Assembly members after the upcoming November elections.

**Closed Session (Claimant Issues):**

In accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia, Neal Schulwolf, Vice-Chair, moved 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). Motion was seconded by Dr. Rakestraw, and passed unanimously.

**Certification**

Upon the conclusion of the closed session, Neal Schulwolf, Vice-Chair, 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 individually and each certified the motion.

In open session, Neal Schulwolf, Vice-Chair, moved that the discussion regarding claimant's request be tabled until the next Board Meeting to be held so that staff can gain additional information and provide their recommendations and so that prudent and reasonable expenditures from the Fund are ensured. Motion seconded by Dr. John Seeds and passed unanimously.

**New Business**

*2012 Audit Report*

Donna Craver, Partner, KPMG, and Kim Edwards, Senior Manager, KPMG, were introduced to the Board and reviewed the audit for 2012. No audit adjustments were suggested nor were there any changes needed to be made to properly state the Program's financial position for the year ending December 31, 2012. No deficiencies were found with Internal Controls. The Program's financial report received an unqualified opinion.

**Executive Director's Report:**

Executive Director George Deebo thanked everyone for being at the meeting and advised that there would not be a meeting in August. He also reported that he will be interviewing a firm that is interested in managing the Program's real estate that is held in trust. Results of the interview will be reviewed at the next Board meeting.

**Adjournment:**

Meeting was adjourned by Neal Schulwolf, Vice-Chair, at 12:07 p.m.



August No Meeting

September No Meeting

October No Meeting

**Virginia Birth-Related Neurological Injury Compensation Program  
Board of Director's Meeting  
Minutes for November 20, 2013 - Final**

**Attendees:**

Neal Schulwolf, Acting Chair  
Hope Cupit, CPA  
Francoise Mullen  
Vanessa S. Rakestraw, Ph.D., CRC  
John Seeds, MD  
Lee Talley

**Also Present:**

George Deebo, Executive Director  
Candace Thomas, Deputy Director  
Angela Conley, Claims Manager  
Carla Collins, Assistant Attorney General III, Office of the Attorney General  
Ann LaCroix Jones, Jones & Rostant, PC

**Call to Order:**

Neal Schulwolf called the meeting to order at 2:30 p.m. Introductions of Board members were made.

**Minutes:**

A motion was made by Lee Talley to accept the July 9, 2013 Board Minutes with one revision requested by Candace Thomas, Deputy Director. Francoise Mullen seconded the motion and it passed unanimously.

**Finance:**

There are 135 active claimants in the Program. Investments as of October 31, 2013 averaged \$347 million.

**Investment:**

The Investment Committee met on November 5, 2013 with Cap Group. Shifting an alternative fund to another alternative fund was the only investment activity recently administered. George Deebo, Executive Director, advised the Board that the government shut-down and other events that usually affect the market have not had a significant impact on investments.

**Public Comment:**

None

**Closed Session (Claimant Issues and Case Updates):**

Neal Schulwolf 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 and that the Board go into closed meeting for the purpose of

Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Board, and consultation with legal counsel employed or retained by

the Board regarding specific legal matters requiring the provision of legal advice by such counsel regarding:

Discussion of records the Virginia Birth-Related Neurological Injury Compensation Program is required to keep confidential pursuant to Virginia Code Section 38.2-5002.2; more specifically, records concerning the deliberations of the Board of Directors in connection with specific claims, as prevented from being disclosed by Virginia Code Section 38.2-5002.2 (iii) and regarding pending litigation.

The motion was seconded by Lee Talley and passed unanimously.

Ann Jones, Esquire, with Jones & Rostant, P.C., presented her client's case before the Board.

After Ms. Jones left the boardroom, the Board considered and discussed the remaining claimants' issues that were on the Agenda for the November 20, 2013 meeting of the Board. The Board also discussed case updates with counsel.

Upon the conclusion of the closed session, it was moved that 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):**

Claimant 1 [REDACTED]: A motion was made that the Board authorize Carla Collins to meet with claimant's attorney to settle the claim with one caveat whereby the Program has the right to examine and deny any future claims. Motion was seconded by Hope Cupit and it passed unanimously.

Claimant 2 [REDACTED] The Board moved to allow up to the cost of a stair lift (\$20,000) that can be used to either purchase said stair lift or apply the funds toward the purchase of an elevator with the claimant being responsible for the additional cost. Motion was seconded by Vanessa Rakestraw and it passed unanimously.

Claimant 3 [REDACTED] The Board moved to request for a release of information form from the claimant and that the Program's consulting physician contact the treating physician resulting in a more specific recommendation from the consulting physician. Motion was seconded by Francoise Mullen and it passed unanimously.

#### **New Business**

George Deebo, Executive Director, reminded the Board that elections for the Chair and Vice-Chair will be voted on in December. Those who are interested in serving were requested to advise George Deebo, Executive Director, prior to the elections.

**Executive Director's Report:**

George Deebo, Executive Director, advised the Board that the Program is in the process of engaging a new trust holder and property manager for all trust homes. Further information will be discussed as available.

**Adjournment:**

Neal Schulwolf thanked everyone for their participation and support. An email will be sent to all Board members as to the date and time for the next Board meeting. The meeting was adjourned at 4:30 p.m.

**Virginia Birth-Related Neurological Injury Compensation Program  
Board of Director's Meeting  
Minutes for December 10, 2013**

**Attendees:**

Neal Schulwolf, Acting Chair  
Dave Barrett  
Hope Cupit, CPA  
Francoise Mullen  
Vanessa S. Rakestraw, Ph.D., CRC  
John Seeds, MD

**Also Present:**

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

**Call to Order:**

Neal Schulwolf, Acting Chair, called the meeting to order at 10:35 a.m.

**Minutes:**

A motion was made by Neal Schulwolf to approve minutes with one revision by Carla Collins, Assistant Attorney General. Hope Cupit seconded the motion and it passed unanimously.

**Finance:**

Investments closed at the end of November 2013 at \$356M compared to \$305M in 2012. Candace Thomas, Deputy Director, informed the Board that active claimants totaled 136 instead of the previous stated number of 135. Ms. Thomas also told the Board that the Program has received the GFOA award for 2012. The Board was advised that financial disclosures for each member were needed by January 15, 2014.

**Investment:**

Dave Barrett reported that investments have grown 11.5% over the year. The portfolio should remain strong for the remainder of the year.

**Legislative:**

George Deebo, Executive Director, reviewed legislative activity regarding the Program's consultant, Sue Rowland, looking towards the 2013 General Assembly. Mr. Deebo will keep the Board informed of any new developments.

**Public Comment:**

None

**Closed Session (Claimant Issues):**

Neal Schulwolf moved that in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia, 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 Dave Barrett, and passed unanimously.

Upon the conclusion of the closed session, Neal Schulwolf moved the adoption of the following resolution:

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

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

**NOW, THEREFORE, BE IT RESOLVED**, that the Virginia Birth-Related Neurological Injury Compensation Program Board certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board.

The Board members were polled and all certified the motion.

**Results of Closed Session (Claimant Issues):**

Claimant 1 [REDACTED] It was moved by Neal Schulwolf that the Board approve the settlement for the agreed upon terms. Motion was seconded by John Seeds, MD, and it passed unanimously.

Claimant 2 [REDACTED] It was moved by Neal Schulwolf that the Board approve payment of up to the requested amount based on expert's review to be used to support medically necessary equipment for claimant. Motion was seconded by Hope Cupit and was passed unanimously.

Claimant 3 [REDACTED] A motion was made by Neal Schulwolf that the Board to approve a new full-size wheelchair accessible van. Motion was seconded by David Barrett and it passed unanimously.



**New Business**

Officers for the Board for 2014 were nominated and elected at the December meeting. A motion was made to approve David Barrett as Chairman and Neal Schulwolf as Vice-Chair. The motion was seconded by John Seeds, MD, and was approved unanimously.

**Executive Director's Report:**

George Deebo is working on finalizing a new trust holder and property manager for all trust homes. A new contract has been written and forwarded to the prospective party.

**Adjournment:**

Neal Schulwolf, thanked the Board, the Commonwealth Attorney General and the staff for all their support and participation for this year and hoped for a strong and prosperous new year.

The schedule for 2014 Board and Committee meetings will be emailed to all Board members.

The meeting was adjourned at 11:35 a.m.