

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for January 14, 2014**

Attendees:

Dave Barrett, Chair
Neal Schulwolf, Vice-Chair
Hope Cupit, CPA
Francoise Mullen
Vienne Murray, MD
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:

Dave Barrett, Chair, called the meeting to order at 10:35 a.m.

Minutes:

A motion was made by Dave Barrett to approve minutes with three revisions from Carla Collins, Assistant Attorney General. Francoise Mullen seconded the motion and it passed unanimously.

Finance:

The Program has 139 active claimants with three added in December. A total of five new claimants were added for the year 2013. The year ended with a total of \$374M compared to \$326M in the previous year. Candace Thomas, Deputy Director, has transferred \$14M to the trust account for investment.

Investment:

Dave Barrett reviewed the quarterly snapshot investment report. Investments have had steady growth in a moderate to moderate aggressive portfolio and the hope is to have the same steady growth for 2014.

Audit Committee:

Donna Craver and Robin Harmon with KPMG met with the Program's Audit Committee prior to the Board meeting. The committee is composed of John Seeds and Hope Cupit. The meeting provided an overview on the objective of the audit and the responsibilities of the auditors, the Audit Committee and management. The testing of operations and identifying any risk of fraud were also discussed. KPMG has started the field work for the audit and should be done by May or June.

Legislative:

A bill to provide minor clarifying language regarding the Program's ability to promulgate regulations will be sponsored in both the Virginia House and Senate for the current General Assembly. The Board will continue to receive any new developments on the legislation.

Public Comment:

None

Closed Session (Case Updates):

Dr. Vienne Murray moved that in accordance with the provisions of Section 2.2-3711 (A)(7) 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 pending litigation. The motion was seconded by Hope Cupit, and passed unanimously.

Upon the conclusion of the closed session, Dr. Vienne 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 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 (Case Updates):

Dave Barrett made a motion that the Board vote to ratify settlement agreements for attorney fees and costs regarding the [REDACTED] and [REDACTED] cases. The motion was seconded by Hope Cupit, and passed unanimously.

New Business

No new business.

Executive Director's Report:

No information to report.

Adjournment:

The meeting was adjourned at 11:40 a.m.

February No Meeting

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for March 11, 2014**

Attendees:

Dave Barrett, Chair
Neal Schulwolf, Esq., Vice-Chair
Hope Cupit, CPA
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:

Dave Barrett, Chair, called the meeting to order at 10:45 a.m.

Minutes:

A motion was made by Neal Schulwolf, Vice-Chair, to approve the January minutes. Dr. John Seeds seconded the motion and it passed unanimously.

Finance:

No new claimants were brought into the Program in February. February's revenue totaled \$377M compared to \$334M the previous year. Deferred revenue from 2013 has been changed to earned income totaling \$23.3M.

Investment:

Dave Barrett reviewed the quarterly snapshot investment report. The Cap Group Advisors met with the Investment Committee prior to the Board meeting. The meeting provided valuable information on the financial investments of the Program. Mr. Barrett requested that more meetings with Cap Group Advisors be planned throughout this year.

Legislative:

A bill to provide minor clarifying language regarding the Program's ability to promulgate regulations has been tabled. Further discussions with members of the General Assembly will continue to provide a better understanding of what the Board is requesting.

Public Comment:

None.

Closed Session (Combined Motion):

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, 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.

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 Issue):

Neal Schulwolf made a motion that the Board approve claimant's ██████ request to pay the additional cost for a video monitor system. The allowance for such items will be increased to \$150. Claimants will be reminded that they must provide the necessary paperwork stated in the guidelines of the Program prior to any purchase. The motion was seconded by Hope Cupit, and passed unanimously.

New Business

No new business.

Executive Director's Report:

George Deebo, the Executive Director, reviewed the expenditure report that is sent out annually to the families so that all expenses incurred for the previous year can be reviewed and checked for any misinformation. He also stated that the members of the Board will be polled a week prior to the next Board meeting to see that a quorum will be met.

Adjournment:

The meeting was adjourned at 12:05 p.m.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting**

Minutes for April 8, 2014

Attendees:

Neal Schulwolf, Esq., Vice-Chair
Hope Cupit, CPA
Francoise Mullen
Vienne Murray, MD
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
Claire Gesalman, Parent of Claimant Daniel Gesalman

Call to Order:

Neal Schulwolf, Vice-Chair, called the meeting to order at 10:40 a.m.

Introductions:

Introductions were made by the Board members, the Program's staff, and the Assistant Attorney General.

Minutes:

A motion was made by Dr. Seeds to approve the March minutes with revisions provided by Carla Collins, Assistant Attorney General, and Candace Thomas, Deputy Director. Dr. Murray seconded the motion and it passed unanimously.

Finance:

Candace Thomas reported that no new claimants were admitted into the Program in March. Revenue for the month of March totaled \$374 million (hereinafter "M") compared to \$336M the previous year. George Deebo, Executive Director, also advised the Board that Candace Thomas will be reviewing the rising costs of pre-admission expenses.

Investment:

Candace Thomas recapped the Quarterly Snapshot Report. Investments were up 7% for the quarter and down 3% for the month of March. Due to a change in management and fund performance, new investments have been purchased while other funds have been eliminated.

Public Comment:

Claire Gesalman told the Board that in the past, the Program's staff and Board members would travel to meet with claimants' families in their area. Ms. Gesalman would like to see more interaction of this type renewed. Neal Schulwolf thanked Ms. Gesalman for her suggestion and stated that the cost and logistics would be reviewed to see if traveling to meet with the claimants' families is feasible.

Closed Session (Combined Motion):

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, 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.

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 Issue):

Neal Schulwolf made a motion to table the claimant's (██████████) issue until the next Board meeting while the Program's staff obtains additional information. Hope Cupit seconded the motion, and it was passed unanimously.

New Business

No new business.

Executive Director's Report:

George Deebo advised the Board that the terms of three Board members will be completed in June of this year. The members were also informed that they can continue to serve after their term expires until a replacement is approved. Neal Schulwolf suggested calling the Governor's office to get an update on new appointments to the Board.

Adjournment:

The Vice-Chair adjourned the meeting at 12:10 p.m. The next Board meeting is scheduled for May 13, 2014.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting**

Minutes for May 13, 2014

Attendees:

David Barrett, Chair
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:

David Barrett called the meeting to order at 10:35 a.m.

Minutes:

Dr. John Seeds moved to approve the March minutes, with revisions recommended by Carla Collins. Hope Cupit seconded the motion and it passed unanimously.

Finance:

Candace Thomas reported that no new claimants were admitted into the Program in April. Revenue for the month of April totaled \$374 million compared to \$340 million the previous year. Due to the recommendations made by the Program's auditors, investments now will be reconciled on a trade-date basis instead of based upon settlement statements. Because of this change, investment information will be one month behind. Candace Thomas also reported that the audit for this year has been completed.

Investment:

David Barrett, George Deebo, and Candace Thomas met with Cap Group Advisors on Friday, May 9th. Dave Barrett reported that the advisors are constantly looking at asset allocations, and monitoring and rebalancing investments such that investments are on a good track for this year. A follow-up meeting with the investment consultants will take place in June. Investments were up 4% for April and 1% for year-to-date.

Public Comment:

None

Closed Session (Voting Ratification and Case Updates):

Dr. John Seeds moved 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.

Upon the conclusion of the closed session, Dr. John Seeds moved the adoption of the following resolution:

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

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

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

The Board members were polled individually and each member certified the motion.

Results of Closed Session (Voting Ratification and Case Updates):

Hope Cupit made a motion to ratify all votes made by the Board during the following dates: June 11, 2013, July 9, 2013, November 20, 2013, December 10, 2013, January 14, 2014, March 11, 2014, and April 8, 2014. The motion was seconded by Françoise Mullen and passed unanimously. (Please see attached for additional information, which is incorporated here by reference as if fully set forth here.)

Case designation B14-01- [REDACTED] David Barrett moved to authorize Counsel, Assistant Attorney General Carla Collins, to negotiate a settlement of pre-Petition reimbursement compensation for family care. Vanessa Rakestraw seconded the motion and it passed unanimously.

Case designation B13-06 – [REDACTED] David Barrett, moved to ratify the settlement of pre-Petition compensation claims for Claimant. Hope Cupit seconded the motion and it passed unanimously.

Case designation B13-05 – [REDACTED] David Barrett, moved to ratify the settlement of pre-Petition compensation claims and the claim for fees and costs for Claimant. Additionally, Dave Barrett moved to ratify the Program's agreement to pay the award of compensation pursuant to Virginia Code §38.2-5009.1. Françoise Mullen seconded the combined motion and it passed unanimously.

New Business:

George Deebo has called the Office of Appointments regarding the three Board positions that will be vacant as of June. Neal Schulwolf has been re-nominated to sit on the Board. Board members are asked to send any suggestions for nominees to George Deebo.

Carla Collins read the proposed revisions to the Plan of Operations. Dave Barrett moved to forward the proposed revisions to the Plan of Operations to the State Corporation Commission for approval. Hope Cupit seconded the motion and it passed unanimously.

Prior to adjournment, the Board recognized Francoise Mullen for her service and dedication to the Board. Ms. Mullen's term expires next month.

Adjournment:

David Barrett adjourned the meeting at 11:50 a.m.

Votes to be Ratified:

June 11, 2013:

Approving the April 2013 Board Minutes

Holding a Closed Session pursuant to Virginia Code §§2.2-3711(A)(7) and 2.2-3705.5(16) to discuss claimants' issues pursuant to §38.2-5002.2(iii) and obtain legal advice concerning them

Certifying, pursuant to Virginia Code §2.2-3712, that the Closed Session was conducted in conformity with Virginia law, specifically in conformity with the requirements of FOIA

Ratifying the votes regarding the specific Claimant Issues:

Denying the request for a portable ramp based upon a duplication of benefits (One dissenting vote)

Authorizing payment of the requested amount in lieu of litigation

Authorizing 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

Approving the contract (MOU wt OAG) and authorizing Executive Director George Deebo to endorse the contract and accept its terms and conditions.

Holding a Closed Session pursuant to Virginia Code §§2.2-3711(A)(7) and 2.2-3711(A)(1) to discuss a personnel matter pursuant to §2.2-3711(A)(1)

Certifying, pursuant to Virginia Code §2.2-3712, that the Closed Session was conducted in conformity with Virginia law, specifically in conformity with the requirements of FOIA

July 9, 2013:

Approving the June 11, 2013 Board Minutes with revisions provided by AAG Carla Collins

Holding a Closed Session pursuant to Virginia Code §§2.2-3711(A)(7) and 2.2-3705.5(16) to discuss claimants' issues pursuant to §38.2-5002.2(iii) and obtain legal advice concerning them

Certifying, pursuant to Virginia Code §2.2-3712, that the Closed Session was conducted in conformity with Virginia law, specifically in conformity with the requirements of FOIA

Ratifying the Board's tabling of the Claimant's request until the next Board Meeting in September so that staff could gain additional information and provide their recommendations so that prudent and reasonable expenditures to the fund can be established.

November 20, 2013:

Approving the July 9, 2013 Board Minutes with one revision requested by Dep Dir Candace Thomas

Holding a Closed Session pursuant to Virginia Code §§2.2-3711(A)(7) and 2.2-3705.5(16) to discuss claimants' issues pursuant to §38.2-5002.2(iii) and obtain legal advice concerning them and to discuss pending litigation

Certifying, pursuant to Virginia Code §2.2-3712, that the Closed Session was conducted in conformity with Virginia law, specifically in conformity with the requirements of FOIA

Ratifying the votes regarding the specific Claimant Issues:

Authorizing Carla Collins to meet wt cl's attorney to settle the claim wt one caveat whereby the Program has the right to examine and deny any future claims.

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 wt the claimant being responsible for the additional cost.

To request a release of information form from the claimant and for the Program's consulting physician to contact the treating physician resulting in a more specific recommendation from the consulting physician.

December 10, 2013:

Approving the November 20, 2013 Board Minutes with one revision by Carla Collins, Asst Atty Gen

Holding a Closed Session pursuant to Virginia Code §§2.2-3711(A)(7) and 2.2-3705.5(16) to discuss claimants' issues pursuant to §38.2-5002.2(iii) and obtain legal advice concerning them

Certifying, pursuant to Virginia Code §2.2-3712, that the Closed Session was conducted in conformity with Virginia law, specifically in conformity with the requirements of FOIA

Ratifying the votes regarding the specific Claimant Issues:

Authorizing and Approving the settlement for the agreed upon terms

Approving payment of up to the requested amount based on expert's review to be used to support medically necessary equipment for claimant.

To approve a new full-size wheelchair accessible van.

Nominating and electing the Officers for the Board for 2014

January 14, 2014:

Approving the December 10, 2013 Board Minutes with three revisions by Carla Collins, Asst Atty Gen

Holding a Closed Session pursuant to Virginia Code §§2.2-3711(A)(7) to obtain legal advice concerning pending litigation

Certifying, pursuant to Virginia Code §2.2-3712, that the Closed Session was conducted in conformity with Virginia law, specifically in conformity with the requirements of FOIA

Ratifying the votes following the Closed Session:

To ratify settlement agreements for attorney fees and costs regarding 4 cases.

March 11, 2014:

Approving the January 14, 2014 Board Minutes

Holding a Closed Session pursuant to Virginia Code §§2.2-3711(A)(7) and 2.2-3705.5(16) to discuss claimants' issues pursuant to §38.2-5002.2(iii), to obtain legal advice concerning them, and to discuss pending litigation

Certifying, pursuant to Virginia Code §2.2-3712, that the Closed Session was conducted in conformity with Virginia law, specifically in conformity with the requirements of FOIA

Ratifying the votes regarding the specific Claimant Issue:

To approve claimant's request to pay the additional cost for a video monitor system and to increase the allowance for such items to \$150. Claimants will be reminded that they must provide the necessary paperwork stated in the guidelines of the Program prior to any purchase.

April 8, 2014:

Approving the March 11, 2014 Board Minutes with revisions provided by Carla Collins, AAG

Holding a Closed Session pursuant to Virginia Code §§2.2-3711(A)(7) and 2.2-3705.5(16) to discuss claimants' issues pursuant to §38.2-5002.2(iii), to obtain legal advice concerning them, and to discuss pending litigation

Certifying, pursuant to Virginia Code §2.2-3712, that the Closed Session was conducted in conformity with Virginia law, specifically in conformity with the requirements of FOIA

Ratifying the votes regarding the specific Claimant Issue:

To table the claimant's issue until the next Board meeting while the Program's staff obtains additional information

The Board also authorized Carla Collins, AAG, and Director Deebo to settle the pending case as specified and in accordance with the terms and conditions discussed.

June No Meeting

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for July 8, 2014**

Attendees:

David Barrett, Chair
Neal Schulwolf, Esq., Vice-Chair
Vicki Harris, J.D.
Vienne Murray, M.D.
Vanessa S. Rakestraw, Ph.D., CRC
John Seeds, M.D.

Also Present:

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

Call to Order:

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

Introductions:

Mr. Barrett welcomed Ms. Vicki Harris as a new Board member and the Board members, Program's staff, and the Assistant Attorney General introduced themselves.

Minutes:

Mr. Schulwolf moved to approve the May Minutes, with revisions recommended by Assistant Attorney General Carla R. Collins. Dr. Seeds seconded the motion and it passed unanimously.

Finance:

Ms. Thomas reported that there are 139 claimants in the Program as of May 31st. Reserves for the month of May totaled \$379 million compared to \$337 million the previous year. The Board was also reminded that investments will now be reconciled on a trade-date basis, versus based upon settlement statements. Because of this change, investment information will be provided on a one-month delay.

Investment:

Mr. Barrett reported that investments were strong for the month of June with a return percentage rate of 1.2% for the month and 3.7% year-to-date return. A meeting with the investment advisors will take place within the next couple of months.

Public Comment:

No Public Comment.

Closed Session (Combined Motion):

Mr. Barrett moved in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia, that the Board go into closed meeting for the purpose of

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

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

Upon the conclusion of the closed session, Mr. Barrett moved the adoption of the following resolution:

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

The Board members were polled individually and each member certified the closed meeting.

Dr. Murray excused herself from the meeting due to a prior engagement, but a quorum was present for the entire Board meeting.

Results of Closed Session (Case Updates, Claimants' Issues & Settlement Approvals)

Claimant 1 - ██████ Dr. Seeds made a motion to deny both requests for housing compensation. Ms. Rakestraw seconded the motion and it passed by unanimous vote of the remaining Board members.

Claimant 2 – ██████ Dr. Seeds made a motion to approve construction of a handicapped-accessible bedroom and bath. Dave Barrett seconded the motion and it passed by majority vote with one dissenting vote by Ms. Harris and one abstention by Ms. Rakestraw . Ms. Rakestraw made a motion to approve a monthly stipend of up to

\$25 for one year for electricity expenses incurred to operate this admitted claimant's medically-necessary equipment based upon the unique facts and circumstances of this claim. The Program will re-evaluate the request after one year. Chairman Barrett seconded the motion and it passed by unanimous vote with abstentions by Vice-Chair Schulwolf and Ms. Harris.

Claimant 3 - ██████████ Ms. Harris made a motion to deny the request for van modifications that are not medically necessary. Dr. Seeds seconded the motion and it passed by unanimous vote of the remaining Board members.

Case B-14-01 – ██████████ Mr. Schulwolf made a motion that the Board approve the settlement for the agreed upon terms regarding pre-petition compensation. Dr. Seeds seconded the motion and it passed by unanimous vote with one abstention by Ms. Harris.

Case B-13-06 – ██████████ Mr. Schulwolf made a motion that the Board approve the settlement for the agreed upon terms regarding pre-petition compensation. Dr. Seeds seconded the motion and it passed by unanimous vote with one abstention by Ms. Harris.

Case B-12-07 – ██████████ The Board reached a consensus not to appeal the Full Commission's decision after consideration of advice of counsel, discussion, and deliberation.

New Business:

Mr. Schulwolf requested that the names of attorneys be redacted from material regarding claimant issues and settlements to avoid any potential conflict of interest. Board members and counsel agreed to redact such information.

Adjournment:

There will not be a meeting in August. On September 9, 2014, an Investment Committee meeting will begin at 9:30 a.m. followed by the Board meeting at 10:30 a.m. Mr. Barrett, Chairman, adjourned the meeting at 12:15 p.m.

August No Meeting

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Draft Minutes for September 9, 2014**

Attendees:

David Barrett, Chair
Neal Schulwolf, Esq., Vice-Chair
Vicki Harris, J.D.
Vanessa S. Rakestraw, Ph.D., CRC
John Seeds, M.D.

Also Present:

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

Call to Order:

Mr. Barrett, Chair, called the meeting to order at 10:35 a.m.

Introductions:

No formal introductions were made.

Minutes:

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

Finance:

Ms. Thomas reported that there are 142 active claimants in the Program as of July 31st. The Board was advised of one deceased claimant. Investments totaled \$375 million compared to \$336 million the previous year. There were no major changes in the financials to report. Mr. Deebo stated that pre-administrative costs and wage benefits were being tracked as those expenses have increased. Actuarial reports will be presented at the next meeting.

Investments:

An Investment Committee meeting was held prior to the Board meeting. Mr. Barrett reported that investments were positive for the month of August with a steady growth rate of

2% for the month and 4.6% year-to-date. Interest rates are not predicted to go up dramatically to affect fixed assets.

Public Comment:

None to report.

Old Business:

Mr. Deebo reported that the State Corporation Commission has declined the amendments to the Plan of Operations stating the legislature would be the party to make the type of changes requested.

Closed Session (Combined Motion):

Ms. Harris moved in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia, that the Board go into closed meeting for the purpose of

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

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

Upon the conclusion of the closed session, Ms. Harris moved the adoption of the following resolution:

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 seconded by Mr. Barrett. The Board members were polled individually and all certified the motion.

Results of Closed Session (Case Updates & Settlement Approvals)

Claimant 1 - [REDACTED] Dr. Seeds made a motion to approve the van request. Mr. Schulwolf seconded the motion and it passed by unanimous vote.

Claimant 2 – [REDACTED] Mr. Schulwolf made a motion that additional information would need to be gathered for a cost analysis. Dr. Seeds seconded the motion and it passed by unanimous vote.

Case B-14-01 - [REDACTED] Mr. Schulwolf made a motion that the Board approve the settlement for the agreed upon terms for fees and costs. Ms. Harris seconded the motion and it passed by unanimous vote.

Case B-11-10 – [REDACTED] Mr. Schulwolf made a motion that the Board approve the settlement for housing modifications. Dr. Seeds seconded the motion and it passed by unanimous vote.

Case B-12-07 – [REDACTED] Mr. Schulwolf made a motion that the Board approve the settlement for the agreed upon terms for fees and costs. Dr. Seeds seconded the motion and it passed by unanimous vote.

Case B-14-02 – [REDACTED] Mr. Schulwolf made a motion that the Board approve the settlement for pre-petition compensation. Dr. Seeds seconded the motion and it passed by unanimous vote.

Case B-14-02 – [REDACTED] Mr. Schulwolf made a motion that the Board approve the settlement for the agreed upon terms for fees and costs. Ms. Harris seconded the motion and it passed by unanimous vote.

New Business:

A new Property Manager/Trustee has been contracted for the Program's Trust properties. Dr. Seeds made a motion for the Board to approve the process and expend the funds to obtain the services. Ms. Harris seconded the motion and it passed by unanimous vote. The services will be provided by Chesapeake Trust Company and Chesapeake Bank, respectively.

Adjournment:

Board training will be conducted prior to the next Board meeting on October 14th beginning at 9 am. An email will be sent out to the Board members to poll how many people will be able to attend both sessions. Mr. Barrett, Chair, adjourned the meeting at 11:50 a.m.

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Draft Minutes for October 14, 2014**

Attendees:

David Barrett, Chair
Neal Schulwolf, Esq., Vice-Chair
Hope Cuplt
Vienne Murray, M.D.
Vanessa S. Rakestraw, Ph.D., CRC
John Seeds, M.D.

Also Present:

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

Call to Order:

Mr. Barrett, Chair, called the meeting to order at 11:20 a.m.

Minutes:

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

Finance:

Ms. Thomas reported that one claimant was added in August for a total of 142 active claimants in the Program and one claimant has deceased. As of August 31, 2014, investments totaled \$382 million compared to \$329 million the previous year. There were no major changes in the financials to report.

Investments:

CapGroup Advisors met with the Board prior to the meeting. Mr. Barrett reported that investments have done very well this year however recently the market has been volatile due to unstable global conditions.

Public Comment:

None to report.

Old Business:

None to report.

Closed Session (Claimants' Issues)

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

Discussion of records the Virginia Birth-Related Neurological Injury Compensation Program is required to keep confidential pursuant to Virginia Code Section 38.2-5002.2; more specifically, records concerning the deliberations of the board of directors in connection with specific claims, as prevented from being disclosed by Virginia Code Section 38.2-5002.2 (iii). The motion was seconded by Dr. Seeds 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 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 seconded by Dr. Murray. The Board members were polled individually and all certified the motion.

Results of Closed Session (Claimants' Issues)

Issue 1 – ██████ – B10-07: Mr. Barrett moved to approve the van related request. Dr. Murray seconded the motion and it passed unanimously.

Issue 2 -- [REDACTED] -- B98-09: Mr. Barrett moved to approve the van request. Dr. Murray seconded the motion and it passed unanimously.

Issue 3 -- [REDACTED] -- B02-03: Dr. Seeds moved to continue our relationship with the current agency and the employee caring for claimant. The motion failed.

Mr. Barrett moved to approve direct payment at the family care rate and to factor in a local mean RN rate. Dr. Murray seconded the motion and it passed unanimously.

Dr. Murray excused herself from the meeting due to a prior engagement, but a quorum was present for the entire Board meeting.

There was a consensus by the Board to approve funding for Assistant Attorney General III, Carla R. Collins, to attend the Trial Advocacy College in Charlottesville.

New Business:

None to report.

Adjournment:

Mr. Barrett, Chair, adjourned the meeting at 12:05 p.m. After adjournment, Ms. Cupit announced her resignation at the end of this year. Mr. Barrett stated the Board thanks Ms. Cupit for her years of service as a Board member. A poll will be taken by an email to Board members to see who will be able to attend the November Board meeting on November 11, 2014.

November No Meeting

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting**

Minutes for December 9, 2014 – Final

Attendees:

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

Also Present:

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

Call to Order:

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

Introductions:

Mr. Deebo welcomed Ms. Lydia Byrd as a new Board member. The Board members, Program's staff, and the Assistant Attorney General - III, Carla R. Collins exchanged introductions.

Minutes:

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

Finance:

Ms. Thomas reported that as of the end of October, investments were \$376 million compared to \$347 million for year ending 2013. There are 142 active claimants in the Program as of October 31, 2014. There was no unusual activity to report regarding the financials.

Investments:

Richmond Capital, a local investment firm hired by the Program, met with Ms. Thomas, Mr. Deebo and the Audit Committee at an introductory briefing prior to the Board meeting. Ms. Thomas reported that investments totaled \$380 million and were up 1.2% for the month of

November and 1.5% year-to-date. Additional information regarding Fund Performance rates for the current year compared to 2012 and 2013 will be presented at the next Board meeting.

Audit Committee Report:

Dr. Seeds reported to the Board that the audit will be handled similarly to the one performed last year by KPMG.

Legislative Report:

The Program is not planning to introduce any legislation for the next General Assembly session. Mr. Deebo and Ms. Rowland have communicated with Del. O'Bannon regarding the continued need for legislative clarity regarding the Program's regulatory authority. Mr. Deebo also advised Del. O'Bannon that the State Corporation Commission denied the Program's proposed amendment to the Plan of Operations to expressly reflect the Program's regulatory authority. A dialog will continue with members of the General Assembly regarding this item.

Public Comment:

None to report.

Old Business:

None to report.

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

Mr. Schulwolf moved in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3705.5 (16) of the Code of Virginia, that the Board go into closed meeting for the purpose of:

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

Discussion of records the Virginia Birth-Related Neurological Injury Compensation Program is required to keep confidential pursuant to Virginia Code Section 38.2-5002.2; more specifically, records concerning the deliberations of the board of directors in connection with specific claims, as prevented from being disclosed by Virginia Code Section 38.2-5002.2 (iii) and regarding pending litigation. The motion was seconded by Ms. Harris and passed unanimously.

CERTIFICATION:

Mr. Schulwolf moved the adoption of the following resolution:

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

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

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

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

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

Claimant 1 – [REDACTED] – B97-04: Mr. Schulwolf moved to deny the claimant's request regarding additional van funding, as made. Dr. Seeds seconded the motion and it passed unanimously.

Mr. Schulwolf then moved to approve an allotment for medically necessary equipment to be installed in the van. Dr. Seeds seconded the motion and it passed unanimously.

Claimant 2 – [REDACTED] – B02-03: Mr. Schulwolf moved to table the matter and have a feasibility study conducted in the interim. Ms. Harris seconded the motion and it passed unanimously.

Claimant 3 – [REDACTED] – B07-04: Mr. Schulwolf moved to approve funding for the repairs to the home deemed necessary by the Program's construction consultant and to authorize counsel to review this matter. Dr. Seeds seconded the motion and it passed unanimously.

Claimant 4 – [REDACTED] – B14-05: Mr. Schulwolf moved that the Board authorize and approve the settlement regarding pre-petition family care. Dr. Seeds seconded the motion and it passed unanimously.

Claimant 5 – [REDACTED] – B14-01: Mr. Schulwolf moved that the Board authorize and approve the requested hourly reimbursement rate pursuant to the Agreement for a maximum of two years, unless a change in circumstance warrants re-evaluation sooner. Ms. Harris seconded the motion and it passed unanimously.

Weisfelner v. Fund 1, et al., Case Number 10-04609; *Weisfelner v. Hofmann, et al.*, Case Number 10-05525; *Weisfelner v. Reichman, et al.*, Case Number 12-01570 –

Mr. Schulwolf moved that the Board authorize counsel to consult with the Board Chair, Dave Barrett, the Vice-Chair, Neal Schulwolf, and the Program's Director, George Deebo regarding all matters pertaining to these cases, also known as the *Lyondell* litigation, and to authorize Special Counsel to engage in negotiations subject to the Board's and the Office of the Attorney General's authorization and approval of any final settlement. Ms. Rakestraw seconded the motion and it passed unanimously.

New Business:

Board elections were held. Mr. Schulwolf made a motion to re-elect David Barrett as Chair and Neal Schulwolf as Vice-Chair for the new term. The motion was seconded by Dr. Seeds and passed unanimously.

Executive Director's Report:

Nothing to report

Adjournment:

Neal Schulwolf, Acting Chair, adjourned the meeting at 12:05 p.m.