

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Comprehensive Annual Financial Report

December 31, 2011

(With Independent Auditors' Report Thereon)



Presented by  
The Department of Finance

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

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## INTRODUCTORY SECTION



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VIRGINIA BIRTH-RELATED  
NEUROLOGICAL INJURY  
COMPENSATION PROGRAM

May 29, 2012

The Board of Directors  
7501 Boulders View Dr., Suite 210  
Richmond, VA 23225

Dear Members of the Board:

The Comprehensive Annual Financial Report (CAFR) of the Virginia Birth-Related Neurological Compensation Program (the Program) for the year ended December 31, 2011, is submitted herewith. This CAFR has been prepared by the Program's Finance Department in accordance with accounting principles generally accepted in the United States of America and conforms to the requirements of the Governmental Accounting Standards Board (GASB).

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Responsibility for both the accuracy of the presented data and the completeness and fairness of the presentation, including all disclosures, rests with the Program. We believe the data, as presented, is accurate in all material respects; that the data is presented in a manner designed to fairly set forth the financial position and results of the operations of the Program as measured by the financial activity of its various accounts; and that all disclosures necessary to enable the reader to gain the maximum understanding of the Program's financial affairs have been included.

This letter of transmittal is designed to complement the Management's Discussion and Analysis (MD&A) and should be read in conjunction with it. The Program's MD&A can be found immediately following the independent auditors' report.

A brief history of the Program, its fiscal operations, and selected accomplishments are presented below.

### **Organization and Function**

With soaring medical malpractice insurance rates and insurance companies on the brink of eliminating coverage in the mid-1980s, up to one-quarter of the Commonwealth of Virginia's (the Commonwealth) obstetricians were threatened with having to close their office doors. To alleviate this crisis, the Commonwealth worked with stakeholders including physician associations, insurers, lawyers and others to develop an innovative solution; the Virginia Birth-Related Neurological Injury Compensation Program. The Program was a first of its kind nationally.

The Program's legislation presents a very specific definition of 'birth injury', which represents a very small number of births each year. By keeping many of the most expensive cases out of the court system, combined with a medical malpractice award cap, the medical malpractice insurance industry has been reasonably stabilized in the Commonwealth (especially when compared to other states) allowing physicians to do what they do best -- treat patients.

*A lifetime of help*

Although the Program was created by the General Assembly of the Commonwealth, it operates as a separate organization. A nine member volunteer board appointed by the Governor of the Commonwealth directs the Program. The Program is regulated by the Code of Virginia, which is very specific in how it operates.

All admissions are through the Virginia Workers' Compensation Commission; the Program itself does not admit claimants. Financial reports are filed annually with the Governor's office, the Virginia Senate and the Virginia House of Delegates. At least every other year, the State Corporation Commission is required to conduct an actuarial study of the Program.

Entry into the Program does not provide for any pre-determined amount of compensation. The Program operates much like an insurance policy in that it pays for actual medically necessary costs and other legislatively stipulated benefits. Additionally, the Program is the payer of last resort in all situations. There is no cap on the total eligible lifetime costs for a claimant.

No federal or state funds are involved in providing services to claimants. Funding is derived only from legislatively allowed sources including participating physician fees, participating hospital fees, nonparticipating physician assessments and liability insurer assessments.

### **Major Initiatives**

Participating physicians and hospitals are continuing to become more aware of the benefits of participation for themselves as well as their patients. A qualifying birth can occur despite the heroic efforts of everyone involved. When it does happen, entry into the Program is important to both families and health services providers.

During 2011, 676 physicians participated in the Program. Along with the coverage benefits of participation, physicians also receive a reduction or credit on their malpractice insurance premiums. During 2011, 37 hospitals were enrolled in the Program. According to estimates, approximately 90% of births are covered by the Program due to participating hospitals and doctors.

The Program covers expenses that insurance and other programs do not. Medically necessary expenses such as doctor and hospital visits, therapy, nursing care, and medical equipment are mandated by the guiding legislation. The Code of Virginia also provides a wage benefit paid to the claimant from age 18 to 65, and payment for legal expenses related to filing the claim. In addition, the Program provides benefits including handicapped accessible vans, handicapped accessible bedroom and bath additions to homes, rental assistance, and allowances for therapeutic toys, medical service dogs and experimental therapies.

The Program's administrative cost as a percentage of total expenses (administrative plus claimant) remain low at 10%.

### **Philosophy**

The Program plays a unique role in the Commonwealth. As previously noted, the Program was established due to a need to improve the tort climate for medical care in the

Commonwealth, with the specific purpose of keeping malpractice insurers writing policies. It accomplished the goal immediately. According to studies and anecdotal information from key players in the industry, the Program is still fulfilling this role.

However, over the past 24 years the more publicly visible role has become the Program's contribution to caring for this specific group of children. Here the information also shows that they receive more benefits and greater care than those utilizing the tort system.

In fact, an article written by an actuary who has studied the Program and a similar organization in Florida noted that such approaches are highly efficient as compared to tort remedies. He writes that the vast majority of money involved in the Program is used for claimant care whereas in the tort system substantial percentages of funds go to other purposes.

Along with striving for such efficiency, the Program has worked to assure its financial reserves receive maximum growth with minimum risk. This has been accomplished through careful planning and the use of a sophisticated investment policy and practice.

#### **Financial Controls**

The Deputy Director is responsible for establishing and maintaining an adequate internal control structure. In fulfilling this responsibility, estimates and judgments are required to assess the expected benefits and related costs of control procedures. The objectives of the control system are to provide the Program with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition and are recorded properly to permit the preparation of financial statements in accordance with accounting principles generally accepted in the United States of America. The concept of reasonable assurance is based on the assumption that the cost of internal accounting controls should not exceed the benefits expected to be derived from the implementation. All internal control evaluations occur within this framework.

#### **Independent Audit**

The Program's guiding legislation (§38.2-5015B) requires an annual independent audit of the Program's financial records and transactions by an independent certified public accountant selected by the Board of Directors.

#### **Acknowledgements**

The Government Finance Officers Association of the United States and Canada (GFOA) awarded a Certificate of Achievement for Excellence in Financial Reporting to the Program for its CAFR for the fiscal year ended December 31, 2010. This was the fourth consecutive year that the Program achieved this prestigious award. In order to be awarded a Certificate of Achievement, a governmental entity must publish an easily readable and efficiently organized CAFR. This report must satisfy both generally accepted accounting principles and applicable legal requirements.

A Certificate of Achievement is valid for a period of one year only. We believe that our current CAFR continues to meet the requirements of the GFOA Certificate of Achievement and we are submitting it to the GFOA to determine its eligibility for another certificate.

The Board of Directors  
May 29, 2012  
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The staff of the Finance Department accomplished the preparation of this CAFR for year ended December 31, 2011. We would like to express our appreciation to all members of the Finance Department who assisted and contributed to its preparation.

Respectfully submitted,



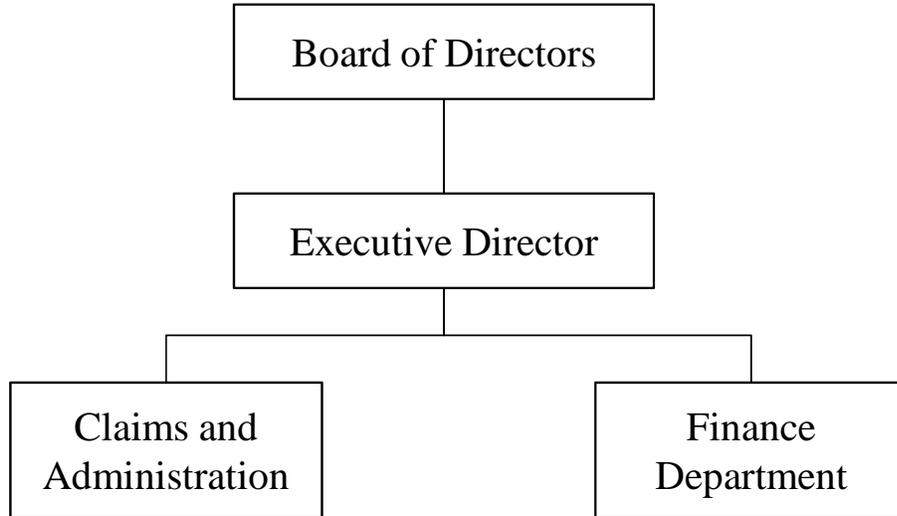
George Deebo  
Executive Director



Candace Thomas, CGFM  
Deputy Director

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

## Organizational Chart



**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Principal Officials

**BOARD OF DIRECTORS**

Susan Lucas, MD, PHD, Chair

David R. Barrett, Vice Chair

Neal C. Schulwolf, Esq.

McLain O’Ferrall

Francoise Mullen

J. Scott Walters, Esq.

Arthur Lee Talley, Jr.

Hope F. Cupit, CPA

John W. Seeds, MD

**OTHER OFFICIALS**

Executive Director

Deputy Director

Assistant Attorney General

George Deebo

Candace Thomas, CGFM

Carla Collins, Esq.

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## FINANCIAL SECTION



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KPMG LLP  
Suite 2000  
1021 East Cary Street  
Richmond, VA 23219-4023

## Independent Auditors' Report

The Board of Directors  
Virginia Birth-Related Neurological  
Injury Compensation Program:

We have audited the accompanying statement of net assets (deficit) of the Virginia Birth-Related Neurological Injury Compensation Program (the Program) as of December 31, 2011 and the related statements of revenues, expenses and changes in fund net assets (deficit) and cash flows for the year then ended, which collectively comprise the Program's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the Program's management. Our responsibility is to express an opinion on these basic financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Program's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the basic financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Program as of December 31, 2011, and the respective changes in financial position and cash flows thereof for the year then ended in conformity with U.S. generally accepted accounting principles.

In accordance with *Government Auditing Standards*, we have also issued our report dated May 29, 2012 on our consideration of the Program's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Accounting principles generally accepted in the United States of America require that the Management's Discussion and Analysis on pages 3 through 9 and the Claims Development Information on pages 21 and 22 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required



supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Our audit was conducted for the purpose of forming an opinion on the basic financial statements as a whole. The Introductory and Statistical Sections are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information has not been subjected to the auditing procedures applied in the audit of the basic financial statements, and accordingly, we do not express an opinion or provide any assurance on it.

KPMG LLP

May 29, 2012

## VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

### Management's Discussion and Analysis

December 31, 2011

This Section of the Virginia Birth Related Neurological Injury Compensation Program (the Program) Comprehensive Annual Financial Report (CAFR) represents our discussion and analysis of the Program's financial performance during the fiscal years ended December 31, 2011 and 2010. Please read it in conjunction with the Program's basic financial statements and accompanying notes.

#### Financial Highlights

- The 2011 revenue from total fees and assessments decreased by \$355,000 or 1.5%. The decrease is primarily due to the general economic slowdown and its impact on liability insurers. Fees assessed from participating physicians increased \$57,000 or 1.5%, participating hospitals decreased \$148,000 or 3.9%, insurance companies decreased \$412,000 or 3.4% and mandated physician fees increased \$148,000 or 3.5%. (An explanation of significant variances is included later in this report).
- The Program's total net assets increased by \$50,400,000 from a deficit of \$149,100,000 in 2010 to a deficit of \$98,700,000 in 2011. The increase in net assets is primarily due to operating revenues of \$23,700,000 and a decrease in the provision for claims of \$37,900,000. (An explanation is included later in this report).
- The Program provided \$8,531,000 in nursing care, \$339,000 in therapy, \$574,000 for 16 handicapped accessible vans, \$410,000 for housing benefits, \$159,000 for durable medical equipment and technology, \$78,000 for hospitals and physician visits, and \$371,000 for claimant legal fees.
- The Program paid 2 awards of \$100,000 each according to Virginia Code §38.2-5009.1 – Infants Dying Shortly after Birth.
- An additional 7 claimants became eligible to receive the wage benefit for a total of 34 eligible claimants. Eligible claimants may request and receive half of the average weekly wage of workers in the Commonwealth of Virginia in the private nonfarm sector. (See Virginia Code §38.2-5009.2) A total of \$698,000 was paid to the 26 eligible claimants requesting the benefit.
- The average cost per active claimant in 2011 and 2010 was approximately \$103,000 and \$101,000 respectively.
- As of December 31, 2011 there were 676 participating physicians, down 2 from 678 physicians in 2010. Participating hospitals remained the same at 37 in 2010 and 2011.
- Administrative expenses were 10% and 9% of the total expenses (administrative plus claimant) paid in 2011 and 2010.
- As of December 31, 2011, 78 families received reimbursement for nursing or attendant care provided by a relative or legal guardian according to Virginia Code §38.2-5009 up 11 from 67 families in 2010. The Program began to reimburse family members for providing care beginning July 1, 2008.

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Management's Discussion and Analysis

December 31, 2011

As of December 31, 2011, the Program had a total of 169 admitted claimants, 42 of which are deceased. During the year ended December 31, 2011, 14 claimants were admitted into the Program, 3 of which were deceased. One existing claimant became deceased. 8 claimant petitions for admission were pending as of December 31, 2011. See chart below:

	<b>Total December 31, 2010</b>	<b>2011 Activity</b>	<b>Total December 31, 2011</b>
Admitted	155	14	169
Deceased	38	4	42
Active	117	10	127

**Overview of the Financial Statements**

The Program's CAFR consists of four sections: introductory, financial, statistical, and compliance. The financial section consists of five components; the independent auditors' report, management's discussion and analysis (this component), the basic financial statements, notes to the basic financial statements, and required supplementary information.

The basic financial statements include the Statement of Net Assets (Deficit), the Statement of Revenues, Expenses, and Changes in Fund Net Assets (Deficit), and the Statement of Cash Flows. The notes to the basic financial statements provide additional details for understanding information presented in the financial statements. The notes are followed by a section of required supplementary information that includes claims development information.

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Management's Discussion and Analysis

December 31, 2011

**Financial Analysis**

*Statements of Net Assets*

The following table reflects the summarized Statements of Net Assets (Deficit) of the Program:

**Table 1**

Summarized Statements of Net Assets (Deficit)

December 31, 2011 and 2010

(In millions)

	<b>2011</b>	<b>2010</b>
Current assets	\$ 21.3	18.2
Noncurrent assets	272.8*	263.8*
Total assets	294.1	282.0
Current liabilities	35.9	35.3
Noncurrent unpaid claims reserve:		
Admitted claims	263.5	270.8
Incurred but not reported claims	93.4	125.0
Total unpaid claims reserve, noncurrent	356.9	395.8
Total liabilities	392.8	431.1
Unrestricted net assets (deficit)	(98.7)*	(149.1)*
Total net assets (deficit)	\$ (98.7)	(149.1)

\* Capital assets and net assets invested in capital assets are immaterial and are not subdivided.

At December 31, 2011 and 2010, the total assets of the Program were \$294.1 million and \$282.0 million, respectively; total liabilities were \$392.8 million and \$431.1 million, respectively, while net assets (deficit) were \$(98.7) million and \$(149.1) million, respectively. The actuarial estimate of future claim payments of children born on or prior to December 31, 2011, plus the actuarial estimate of future claim administration expenses, exceeds the assets of the Program.

The \$9 million increase in noncurrent assets from \$263.8 million in 2010 to \$272.8 million in 2011 consists primarily of net cash provided by operating activities of \$10 million, which was invested.

The total unpaid claims reserve at December 31, 2011 and 2010 was \$369.9 million and \$407.8 million, respectively. This represents the estimated cost for claimants currently admitted into the Program and an estimated number of not yet admitted claimants (incurred but not reported, (IBNR)) with birth dates prior to fiscal year-end that will be admitted to the Program subsequent to fiscal year-end. This reserve is based on an annual actuarial study.

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Management's Discussion and Analysis

December 31, 2011

A summary of the claims provision is as follows (in millions):

	<b>2011</b>	<b>2010</b>
Estimated future payments for claimants	\$ 23.8	23.5
Increase (decrease) in provision for change in methodology and assumptions	(63.7)	7.7
Estimated future payments for new claimants admitted in prior years	18.8	22.9
Estimated claim payments	(16.8)	(15.5)
Net change in claims reserve	\$ (37.9)	38.6

The net change in claims reserve for the years ended December 31, 2011 and 2010 was \$37.9 million decrease and \$38.6 million increase, respectively. Several factors contribute to the significant change in the claims reserve as follows:

- A lower number of actual new Program admissions than previously forecasted.
- A lower estimated number of Program participants born as of December 31, 2010, but not admitted as of that date.
- Lower than predicted benefits payments during 2010.
- Favorable investment income results during 2010 contributing to higher asset values. This is one of the largest contributing factors to the reduction of the claims reserve.
- Continued increases in assessment income from participating physicians and hospitals and non participating physicians due to legislated assessment levels.
- Several methodology changes affecting development of future benefit estimates, reliance on mortality tables, and a downward adjustment in the interest rate for discounting.

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Management's Discussion and Analysis

December 31, 2011

***Statements of Revenues, Expenses and Changes in Fund Net Assets (Deficit)***

The following table shows the summarized Statements of Revenues, Expenses, and Changes in Fund Net Assets (Deficit) of the Program:

**Table 2**

Summarized Statements of Revenues, Expenses, and Changes in Fund Net Assets

Years ended December 31, 2011 and 2010

(In millions)

	<b>Year ended December 31</b>	
	<b>2011</b>	<b>2010</b>
Operating revenues:		
Participating hospitals	\$ 3.6	3.8
Participating physicians	3.9	3.8
Mandated physician fees	4.3	4.2
Insurance fees	11.9	12.3
Total operating revenues	<u>23.7</u>	<u>24.1</u>
Operating expenses:		
Provision for claims, net	(24.8)	50.5
General and administration	0.3	0.2
Total operating expenses	<u>(24.5)</u>	<u>50.7</u>
Operating gain (loss)	48.2	(26.6)
Nonoperating revenue:		
Net investment income	2.2	24.3
Net nonoperating revenue	<u>2.2</u>	<u>24.3</u>
Change in net assets	50.4	(2.3)
Net assets (deficit) at beginning of year	<u>(149.1)</u>	<u>(146.8)</u>
Net assets (deficit) at end of year	<u>\$ (98.7)</u>	<u>(149.1)</u>

**Revenues**

Revenues consist primarily of legislatively established assessments placed on participating and nonparticipating physicians, hospitals, and insurance companies and net investment income. Nonparticipating physicians pay the mandated physician fee. For the years ended December 31, 2011 and 2010, operating revenue was \$23.7 million and \$24.1 million respectively, and nonoperating revenue (expense) was \$2.2 million and \$24.3 million, respectively.

Assessments for 2011 for participating and nonparticipating physicians were \$6,000 and \$300, respectively. Participating hospitals are assessed a fee of \$55 per live birth for the prior year, as reported by the Department of

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Management's Discussion and Analysis

December 31, 2011

Health, not to exceed \$200,000. In 2011 and 2010, liability insurers paid one quarter of one percent on the direct premiums written during the prior year.

In 2008, the Virginia General Assembly authorized increases in future year's assessments according to the following chart; however the increase in fees will have a minor effect on the net assets.

<u>Year</u>	<u>Participating physician fee</u>	<u>Mandated physician fee</u>	<u>Hospital</u>
2012	\$ 6,100	300	\$55/live birth not to exceed \$200,000
2013	6,200	300	\$55/live birth not to exceed \$200,000

Net investment income decreased \$22.1 million in 2011 to \$2.2 million from \$24.3 million in 2010. The difference is primarily due to the change in net appreciation in fair value of the investments of \$11 million increase in 2010 and an \$8.6 million decrease in 2011.

**Expenses**

For the years ended December 31, 2011 and 2010, expenditures totaled \$(24.5) million and \$50.7 million, respectively. The decrease is primarily due to the decrease in provision for change in methodology and assumptions (see above summary and explanation of claims provision). Expenses are comprised of general administrative and claims related expenses, the latter of which reflects both the increases in claims reserve and the claims paid during the year.

General administrative expenses include the portion of salaries, rent, cost of office equipment, and all other expenses not directly related to claims. Administrative expenses were 10% and 9% of the total expenses (administrative plus claimant) in 2011 and 2010. Management estimates that approximately 80% of the total administrative expenses are directly related to claims administration. Of the total administrative expenses of approximately \$1,341,000 in 2011, approximately \$1,073,000 or 80% is related to claims and approximately \$268,000 is related to program administration. Of the total administrative expenses of approximately \$1,064,000 in 2010, approximately \$851,000 or 80% is related to claims and approximately \$213,000 is related to program administration.

Provision for claims includes the portion of general administration expenses related to claims and actual and future expenses related to claims. Claimant expenses include nursing, therapy, physician and hospital visits, prescriptions, housing, transportation, the wage benefit and durable medical equipment. Provision for claims, net has decreased from \$50.5 million in 2010 to \$(24.8) million in 2011. This decrease is primarily due to the changes in actuarial assumptions and differences in the estimated future claims expense and actual expense as discussed previously in this report (see above summary and explanation of claims provision).

# **VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM**

Management's Discussion and Analysis

December 31, 2011

## **Economic Factors**

The fourth quarter rally helped the Program's funds manage a slight gain of 0.6% for the year and a 10.6% average annual return for the last three years. The portfolio's gross and net returns have matched or exceeded the target returns. The asset allocation includes 20% alternatives, 40% stocks, 35% bonds and 5% cash. Considering the recent economic challenges the markets have faced, the Board of Directors continues to focus on prudent asset allocations, risk assessment, disciplined rebalancing, manager due diligence, and adherence to a well developed investment policy.

As of December 31, 2011, 33% of the investment portfolio was invested in separate accounts, 45% in mutual funds, 20% in alternative strategies and 2% in real estate held in trust. The Board believes these actions together with the guidance from CapGroup, the Program's investment advisor, have significantly improved the investment strategy and will continue to enhance the financial position of the Program, which is an important factor in reducing the actuarial deficit.

## **Contacting the Program's Financial Management**

This financial report is designed to provide users (e.g., citizens, taxpayers, claimant families, service providers and creditors) with a general overview of the Program's finances and to demonstrate the Program's accountability for the funds it receives. Questions concerning this report or requests for additional information should be directed to the Deputy Director, 7501 Boulders View Dr. Suite 210, Richmond, VA 23225, 804-330-2471 or visit our website at <http://www.vabirthinjury.com>.

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## BASIC FINANCIAL STATEMENTS



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## INJURY COMPENSATION PROGRAM

### Statement of Net Assets (Deficit)

December 31, 2011

#### Assets

Current assets:	
Cash and cash equivalents	\$ 20,857,057
Accrued interest and dividends	466,191
Total current assets	<u>21,323,248</u>
Noncurrent assets:	
Investments	272,753,426
Capital assets, net	24,302
Other assets	3,009
Total noncurrent assets	<u>272,780,737</u>
Total assets	<u><u>\$ 294,103,985</u></u>

#### Liabilities

Current liabilities:	
Accounts payable	\$ 754,852
Accrued liabilities	340,896
Unearned revenue	21,762,176
Current portion of unpaid claims reserve	13,000,000
Total current liabilities	<u>35,857,924</u>
Noncurrent liabilities:	
Unpaid claims reserve:	
Admitted claims, less current portion	263,500,000
Incurred but not reported claims	93,400,000
Total unpaid claims reserve	<u>356,900,000</u>
Total noncurrent liabilities	<u>356,900,000</u>
Total liabilities	<u><u>\$ 392,757,924</u></u>

#### Net Assets (Deficit)

Invested in capital assets	\$ 24,302
Unrestricted deficit	(98,678,241)
Total net assets (deficit)	<u><u>\$ (98,653,939)</u></u>

See accompanying notes to basic financial statements.

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Statement of Revenues, Expenses, and Changes in Fund Net Assets (Deficit)

Year ended December 31, 2011

Operating revenues:	
Participating hospitals	\$ 3,623,350
Participating physicians	3,868,705
Mandated physician fees	4,362,116
Insurance fees	11,861,936
Other	759
Total operating revenues	23,716,866
Operating expenses:	
Provision for claims, net	(24,790,373)
General and administration	268,151
Total operating expenses	(24,522,222)
Operating gain	48,239,088
Nonoperating revenue:	
Net investment income	2,188,430
Miscellaneous	19,314
Net nonoperating revenue	2,207,744
Change in net assets (deficit)	50,446,832
Net assets (deficit) at beginning of year	(149,100,771)
Net assets (deficit) at end of year	\$ (98,653,939)

See accompanying notes to basic financial statements.

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Statement of Cash Flows

Year ended December 31, 2011

Cash flows from operating activities:	
Receipts from hospitals	\$ 3,373,210
Receipts from participating physicians	4,078,998
Mandated physician fee receipts	4,333,549
Receipts from insurance companies	11,653,900
Other receipts	759
Payments on behalf of claimants	(12,191,859)
Payments to suppliers of goods and services	(646,882)
Payments to employees	(679,781)
Net cash provided by operating activities	<u>9,921,894</u>
Cash flows used in capital and related financing activities:	
Purchase of capital assets	(17,370)
Cash flows from investing activities:	
Purchase of investments	(177,607,569)
Proceeds from sale and maturity of investments	164,017,866
Earnings on investments	6,831,721
Net cash used in investing activities	<u>(6,757,982)</u>
Net increase in cash and cash equivalents	3,146,542
Cash and cash equivalents:	
Beginning of year	<u>17,710,515</u>
End of year	<u>\$ 20,857,057</u>
Reconciliation of operating gain to net cash provided by operating activities:	
Operating gain	\$ 48,239,088
Adjustments to reconcile operating gain to net cash provided by operating activities:	
Depreciation	5,960
Increase (decrease) in:	
Accounts payable	(154,838)
Accrued liabilities	8,134
Unearned revenue	(276,450)
Claims reserve	(37,900,000)
Net cash provided by operating activities	<u>\$ 9,921,894</u>
Noncash investing activities:	
Net depreciation in fair value of investments	\$ (8,575,718)

See accompanying notes to basic financial statements.

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## NOTES TO BASIC FINANCIAL STATEMENTS



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# VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Notes to Basic Financial Statements

December 31, 2011

## (1) Summary of Significant Accounting Policies

### (a) *Nature of Organization*

The Virginia Birth-Related Neurological Injury Compensation Program (the Program) was established under the Virginia Birth-Related Neurological Injury Compensation Act (1987, c.540) (the Act). The Program is a related organization of the Commonwealth of Virginia of which elected officials are accountable as they appoint a voting majority of the Board of Directors (the Board). The Act creates a compensation program that assures lifetime care of infants with severe neurological injuries. The Program is funded through annual assessments of participating physicians and participating hospitals. Liability insurers and nonparticipating physicians contribute to the fund, if necessary, based upon actual experience of the fund. The Program receives no federal or state government funding.

### (b) *Basis of Accounting*

The Program operates as an insurance enterprise fund subject to Governmental Accounting Standards Board (GASB) Statement No. 10, *Accounting and Financial Reporting/or Risk Financing and Related Insurance Issues*, GASB Statement No. 30, *Risk Financing Omnibus – An Amendment to GASB Statement No. 10*, and Financial Accounting Standards Board (FASB) Statement No. 60, *Accounting and Reporting/or Insurance Enterprises*.

The basic financial statements of the enterprise fund are presented on the accrual basis of accounting, using the economic resources measurement focus. Under this method of accounting, revenues are recognized when earned and expenses are recorded when liabilities are incurred without regard to receipt or disbursement of cash. The Program distinguishes operating revenues and expenses from nonoperating items. Operating revenues and expenses generally result from providing services and collecting fees in connection with the Program's principal ongoing operations.

In accordance with GASB Statement No. 20, *Accounting and Financial Reporting for Proprietary Funds and Other Governmental Entities that Use Proprietary Fund Accounting*, proprietary fund types may follow all applicable GASB pronouncements as well as only those FASB pronouncements and predecessor APB Opinions and Accounting Research Bulletins issued on or before November 30, 1989. Under paragraph 7 of GASB Statement No. 20, the Program has elected not to apply FASB pronouncements issued after November 30, 1989.

### (c) *Use of Estimates*

The preparation of the basic financial statements in accordance with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported financial statement amounts and disclosures. Accordingly, actual results could differ from these estimates.

### (d) *Administrative Expenses*

Administrative expenses include salaries, rent, cost of noncapitalizable office equipment and other expenses not directly related to claims. In 2011, administrative expenses related to claims processing

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Notes to Basic Financial Statements

December 31, 2011

of approximately \$1,341,000 were allocated to provision for claims expense in the amount of approximately \$1,073,000 and to general and administrative expense in the amount of approximately \$268,000.

**(e) Cash Equivalents**

For purposes of the statement of cash flows, cash equivalents are defined as short-term, highly liquid investments that are both (a) readily convertible to known amounts of cash and (b) so near maturity that they present insignificant risk of changes in value because of changes in interest rates. Generally, the Program considers investments with original maturities of three months or less to be cash equivalents.

**(f) Investments**

At December 31, 2011, the Program's investments are stated at fair value based on quoted market prices, if available. The Program's investments consist of various index mutual funds and actively managed investments in separate accounts including large and small cap equities, foreign equities, and bonds. Mutual fund investments are valued at their quoted net asset value on the last trading day of the year. Equity securities are valued at the last reported sale price or, if no sale, the latest available bid price on the last business day of the year. Fixed income investments are valued using market evaluations (evaluated prices) from reputable and approved industry vendors, evaluations are based on available market data. All other investments, excluding real estate held in trust, are valued based on amounts provided by the investment advisor or fund administrator and reviewed by management.

Under guidelines established by the Board, the Program could, up until 1999, approve the purchase or construction of a home for the family of a claimant subject to certain restrictions. The home is held in a trust and remains the property of the Program, subject to use by the claimant's family during the term of the trust and subject to conditions imposed by the trust agreement. The trust expires upon the death or institutionalization of the claimant, and stipulates that during occupancy the family is responsible for the payment of utilities, general maintenance of the home, and certain other similar obligations. Real estate held in trust is carried at fair value based on third party appraisals, tax assessments, or other reasonable methodologies.

**(g) Capital Assets**

Capital assets with a cost of \$1,000 or more (threshold implemented in 2004) are recorded at cost. The costs of major improvements are capitalized while the cost of maintenance and repairs, which do not improve or extend the life of an asset, are expensed. Depreciation is provided over the assets' estimated useful lives of three to seven years using the straight-line method.

**(h) Unearned Revenue**

Unearned revenue represents amounts for which revenue recognition criteria have not been met. It is the Program's policy to recognize mandated assessments, participating doctor and hospital fees, and insurance fees on a pro-rata basis over the period in which the assessment or coverage is related, which is one year.

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Notes to Basic Financial Statements

December 31, 2011

**(i) Estimated Liability for Unpaid Claims**

The liability for unpaid claims represents management's estimate, developed in conjunction with the assistance of the Commonwealth of Virginia's actuary, of the Program's discounted estimated cost of payments for both claimants admitted to the Program and an estimated number of not-yet-admitted claimants with birth dates prior to the date of the statement of net assets (deficit) that will be admitted to the Program subsequent to the date of the statement of net assets (deficit). Changes in estimates of such costs are recognized in results of operations in the period in which the changes in estimate are made.

The development of liabilities for future benefit requires management to make estimates and assumptions regarding mortality, morbidity, lapse, expense, and investment experience. Such estimates are primarily based on historical experience and future expectations of these assumptions. The Program's actual incurred losses may vary significantly from the estimated amount included in the Program's financial statements. Management monitors actual experience and, if circumstances warrant, revises its assumptions and the related future policy benefit estimates.

**(2) Deposits and Investments**

The Program's deposit and investment portfolio consists of the following at December 31, 2011:

Cash and cash equivalents	\$	20,857,057
Investments:		
Mutual funds:		
Large cap		28,090,066
U.S. fixed income		56,118,971
International fixed income		5,872,587
International growth		14,551,345
International value		14,813,572
Emerging markets		8,508,033
Alternative strategies		55,031,342
Separate accounts:		
Large cap growth		16,544,348
Large cap value		19,099,574
Small cap growth		5,651,165
Small cap value		5,617,292
Core fixed income		36,519,598
Real estate held in trust		6,335,533
		272,753,426
Total investments		272,753,426
Total cash and cash equivalents and investments	\$	293,610,483

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Notes to Basic Financial Statements

December 31, 2011

**(a) Deposits**

All cash of the Program is maintained in accounts collateralized in accordance with the Virginia Security for Public Deposits Act, Section 2.2-4400 et. Seq. of the Code of Virginia or covered by federal depository insurance.

**(b) Investments**

In accordance with the Virginia Birth-Related Injury Compensation Act, Section 38.2-5016 of the Code of Virginia, the Board is given the authority to invest the Program's funds in a careful and prudent manner at the advice of the investment advisor.

*Credit risk:* – The Program's Investment Policy states that no more than 20% of the fair value of the fixed income portfolio shall be rated less than single "A" quality. The Program's fixed income portfolio at December 31, 2011 is as follows:

		<u>Rating</u>	<u>Fair value</u>	<u>Percent of portfolio</u>	<u>Average maturity (in years)</u>
Mutual funds:					
Vanguard Bond Index	(1)	AA+	\$ 18,041,402	6.8%	7.2
Western Asset Core Plus	(1)	A	22,407,395	8.4	8.1
Loomis Sayles Global Bond Fund	(1)	A	5,872,587	2.2	7.6
PIMCO Total Return Fund	(1)	A+	15,670,174	5.9	9.0
Separate accounts:					
Atlantic Asset Management	(3)	Aa2/AA	16,499,043	6.2	8.3
Richmond Capital Management	(2)	AA	<u>20,020,555</u>	7.5	6.2
Total			<u>\$ 98,511,156</u>		

(1) Average credit quality per Callan Associates, Inc, Morning star and fund company websites.

(2) Average of Moodys and Standard & Poors ratings

(3) Moodys Investors Service/Standard & Poors

*Interest rate risk:* – The Program does not have a formal investment policy that limits investment maturities as a means of managing its exposure to fair value losses arising from increasing interest rates. The Program mitigates risk through relatively conservative asset allocations and investments.

*Foreign currency risk:* – The Program manages its risk associated with foreign currency fluctuations with the asset allocations outlined in its Investment Policy that limit its investments in international developed and emerging index funds up to 21% of its overall portfolio. The Program's investments subjected to foreign currency risk at December 31, 2011 include U.S. publicly traded mutual funds which have an international strategy totaling approximately \$43,746,000.

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Notes to Basic Financial Statements

December 31, 2011

*Custodial credit risk:* – Custodial credit risk is the risk that, in the event of the failure of the counterparty, the Program will not be able to recover the value of its investment or collateral securities that are in the possession of an outside party. The Program’s deposits are maintained in accounts collateralized in accordance with the Virginia Security for Public Deposits Act, Section 2.2-4400 et. Seq. of the Code of Virginia or covered by federal depository insurance. In addition, it is the Program’s practice, although not a formal policy that the investment accounts are held in the Program’s name. The Program’s investment policy states that all fixed income securities held in the portfolio shall have a Standard & Poor’s and/or equivalent credit quality rating of no less than Investment Grade. No more than 20% of the market value of the fixed income portfolio shall be rated less than single “A” quality.

The Program’s return on investments for the year ending December 31, 2011 is summarized as follows:

Interest income	\$	1,662,562
Dividend income		5,734,943
Realized gain on investments		4,050,890
Net depreciation in fair value of investments		(8,575,718)
Investment fees		(625,028)
Fiduciary fees		(59,219)
Net investment income	\$	<u><u>2,188,430</u></u>

**(3) Capital Assets**

Capital assets at December 31, 2011 and the related changes for the year ended were as follows:

		<u>January 1, 2010</u>	<u>Increases</u>	<u>Decreases</u>	<u>December 31, 2011</u>
Computer equipment	\$	47,736	13,799	(4,743)	56,792
Office equipment		36,023	3,571	—	39,594
Automobiles		17,237	—	—	17,237
		<u>100,996</u>	<u>17,370</u>	<u>(4,743)</u>	<u>113,623</u>
Less accumulated depreciation		<u>(86,053)</u>	<u>(5,960)</u>	<u>2,692</u>	<u>(89,321)</u>
Capital assets, net	\$	<u><u>14,943</u></u>	<u><u>11,410</u></u>	<u><u>(2,051)</u></u>	<u><u>24,302</u></u>

**(4) Estimated Liability for Unpaid Claims**

The estimated liability for unpaid claims is the discounted estimated cost of payments for both claimants admitted to the Program and an estimated number of not-yet-admitted claimants with birth dates prior to the date of the statement of net assets (deficit) that will be admitted to the Program subsequent to the date of the statement of net assets (deficit). This discounted cost represents the amount that would need to be

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Notes to Basic Financial Statements

December 31, 2011

invested, as of the date of the statement of net assets (deficit), to pay the claimant expenses as they become due. The liability is determined based on an actuarial study, which is mandated to be performed no less frequently than biennially (done annually for 2011 and 2010). Eligible costs under the Program are costs not otherwise paid by private insurance or other government programs. Costs include nursing, housing, hospitals and physicians, physical therapy, vans, medical equipment, prescription drugs, various other incidental items, loss of earnings, and claim filing expenses.

In general terms, the estimated liability for unpaid claims is determined as follows:

- (1) The total number of claimants is estimated (actual number of admitted claimants plus estimate of the number of not-yet-admitted claimants born prior to year-end).
- (2) Future payments, by category of expense paid for each claimant, are forecasted. These estimates are based on the actual payments made by the Program on behalf of the claimants who had been in the program for three or more years as of December 31, 2011 (taking into consideration each claimant's insurance coverage and eligibility for Medicaid), as well as assumptions regarding future cost of inflation and future increases in the utilization of the benefits and services of the Program.
- (3) Projected future payments to each claimant are adjusted to reflect an assumed life expectancy for each claimant and the time value of money.

The estimated liability for unpaid claims is forecasted based on actual information through the prior fiscal year.

Significant actuarial assumptions for 2011 include:

	<b>2011</b>
Rate of claims inflation (varies based on category of expense)	2.59% – 4.91%
Investment earnings/discount rate	5.50%
Mortality:	
Life expectancy at:	
Birth	28.4 years
Age 3	29.2 years
Estimated number of not-yet-admitted claimants born prior to year end.	
Estimate is based on review of how long it takes for claimants to be admitted to the Program.	42

The total number of claimants (admitted claimants and not-yet-admitted claimants) is estimated to be 206 as of December 31, 2011.

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Notes to Basic Financial Statements

December 31, 2011

The following represents changes in the unpaid claims reserves for the Program for the year ended December 31, 2011:

	<u>2011</u>	<u>2010</u>
Unpaid claims and claim adjustment expenses at beginning of year	\$ 407,800,000	369,200,000
Incurred claims:		
Estimated future payments for new claimants admitted in current year	23,800,000	23,500,000
Estimated future payments for new claimants admitted in prior years	<u>18,800,000</u>	<u>22,900,000</u>
Total incurred claims	<u>42,600,000</u>	<u>46,400,000</u>
Claims payments:		
Estimated claims payments for claimants admitted in current year	(1,500,000)	(1,400,000)
Estimated claims payments for claimants admitted in prior years	<u>(15,300,000)</u>	<u>(14,100,000)</u>
Total claims payments	<u>(16,800,000)</u>	<u>(15,500,000)</u>
Increase (decrease) in provision for change in methodology and assumptions	<u>(63,700,000)</u>	<u>7,700,000</u>
Unpaid claims and claim adjustment expenses at end of year	<u>\$ 369,900,000</u>	<u>407,800,000</u>

Several factors contribute to the significant change in the claims reserve as follows:

- A lower number of actual new Program admissions than previously forecasted.
- A lower estimated number of Program participants born as of December 31, 2010, but not admitted as of that date.
- Lower than predicted benefits payments during 2010.
- Favorable investment income results during 2010 contributing to higher asset values. This is one of the largest contributing factors to the reduction of the claims reserve.
- Continued increases in assessment income from participating physicians and hospitals and non participating physicians due to legislated assessment levels.
- Several methodology changes affecting development of future benefit estimates, reliance on mortality tables, and a downward adjustment in the interest rate for discounting.

The total undiscounted unpaid claims and claim adjustment expenses amount to \$1,605,000,000 at December 31, 2011 and represent unaudited estimates.

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Notes to Basic Financial Statements

December 31, 2011

**(5) Employee Benefits**

The Program pays each employee an amount equal to 27% of his or her salary in lieu of a benefits package. This additional salary is to be used by the employee to acquire certain benefits, if they so choose, and is subject to income and payroll taxes. Additional benefits paid by the Program to its employees amounted to \$121,654 for the year ending December 31, 2011. These benefits are included as salary and benefits expense on the Program's supplementary schedule of general and administrative expenses.

**(6) Operating Lease Commitments**

The Program leases its office space under an operating lease expiring in April 2013. Rent expense totaled \$64,799 for 2011.

Future minimum obligations under this lease are as follows:

2012	\$	67,833
2013		22,833

**(7) Liquidity**

The most recent actuarial study performed for the year ended December 31, 2011, which used claims data as of December 31, 2010, determined that the Program was not actuarially sound. However, the actuarial study did point out that the Program is not in any immediate danger of defaulting on the payment of benefits and that the Program has sufficient assets to continue to pay for claimants' benefits for the subsequent thirty years.

**(8) Contingencies**

Various pending and threatened lawsuits claim eligibility for program benefits. Management believes the Program's claims reserves based upon actuarial assumptions are adequate to provide for the ultimate resolution of these claims.

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**REQUIRED SUPPLEMENTARY INFORMATION**



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**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Claims Development Information

December 31, 2011

(In thousands)

	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
(1) Premiums and investment revenue:										
Earned	\$ 18,136	26,131	25,445	26,032	40,292	39,964	(20,801)	60,741	48,392	25,925
(2) Unallocated expenses	169	129	137	183	189	197	188	196	213	268
(3) Estimated losses and expenses, end of birth year:										
Incurred	13,661	14,000	20,733	21,652	23,000	24,500	23,300	22,300	23,500	23,800
(4) Net paid (cumulative) as of:										
End of birth year	—	—	—	—	—	—	—	68	—	—
One year later	143	159	—	—	157	124	331	303	—	—
Two years later	572	663	4	41	341	369	372	614	—	—
Three years later	1,190	1,548	211	88	420	438	895	—	—	—
Four years later	2,008	2,414	569	421	574	625	—	—	—	—
Five years later	2,773	3,324	802	437	829	—	—	—	—	—
Six years later	3,859	3,913	1,187	519	—	—	—	—	—	—
Seven years later	4,330	4,727	1,493	—	—	—	—	—	—	—
Eight years later	4,737	5,658	—	—	—	—	—	—	—	—
Nine years later	5,195	—	—	—	—	—	—	—	—	—
(5) Reestimated ceded losses and expenses	—	—	—	—	—	—	—	—	—	—
(6) Reestimated net incurred losses and expenses:										
End of birth year	13,661	14,000	20,733	21,652	23,000	24,500	23,300	22,300	23,500	23,800
One year later	13,244	15,333	22,558	22,038	22,332	23,372	21,630	22,575	18,136	—
Two years later	14,544	16,565	22,927	21,409	21,273	21,615	21,917	17,485	—	—
Three years later	15,747	16,814	22,325	20,412	19,624	21,918	16,599	—	—	—
Four years later	15,990	16,408	21,370	18,859	19,908	16,325	—	—	—	—
Five years later	15,593	15,763	19,884	19,127	14,658	—	—	—	—	—
Six years later	14,964	14,759	20,140	14,184	—	—	—	—	—	—
Seven years later	13,984	14,932	15,407	—	—	—	—	—	—	—
Eight years later	14,153	11,736	—	—	—	—	—	—	—	—
Nine years later	11,035	—	—	—	—	—	—	—	—	—
(7) Increase (decrease) in estimated net incurred losses and expenses from end of birth year	(2,626)	(2,264)	(5,326)	(7,468)	(8,342)	(8,175)	(6,701)	(4,815)	(5,364)	—

See accompanying independent auditors' report and notes to required supplementary information.

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Notes to Required Supplementary Information

December 31, 2011

**(1) Claims Development Information**

The table on the preceding page illustrates how the Program's earned revenue and investment income compare to related costs of loss and other expenses assumed by the Program as of the end of each of the previous ten years. The rows of the table are defined as follows: (1) This line shows the total of each year's gross earned premiums and reported investment income. (2) This line shows each year's other operating costs of the Program including overhead and loss adjustment expenses not allocable to individual claims. (3) This line shows the Program's gross incurred losses and allocated loss adjustment expense and net incurred losses and loss adjustment expense (both paid and accrued) as originally reported at the end of the year in which the event that triggered coverage occurred (called birth year). (4) This Section of ten rows shows the cumulative net amounts paid as of the end of successive years for each birth year. (5) This line shows the latest re-estimated amount of losses assumed by re-insurers for each birth year. (6) This section of ten rows shows how each birth year's net incurred losses increased or decreased as of the end of successive years. (This annual re-estimation results from new information received on known losses, reevaluation of existing information on known losses, and emergence of new losses not previously known). (7) This line compares the latest re-estimated net incurred losses amount to the amount originally established (line 3) and shows whether this latest estimate of losses is greater or less than originally thought. As data for individual birth years mature, the correlation between original estimates and re-estimated amounts is commonly used to evaluate the accuracy of net incurred losses currently recognized in less mature birth years. The columns of the table show data for successive birth years.

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## STATISTICAL SECTION



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# VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM

Statistical Section

December 31, 2011

## **Statistical Section**

This Section of the Program's CAFR presents detailed information as a context for understanding what the information in the basic financial statements and required supplementary information indicate about the Program's overall financial health. This information has not been audited by the independent auditors.

### ***Financial Trends***

These tables contain trend information to help the reader understand how the Program's financial performance and well-being changed over time.

Table 1	Net Deficit by Component
Table 2	Schedule of Revenues, Expenses, and Changes in Fund Net Assets (Deficit)
Table 3	Analysis of Average Cost per Active Claimant
Table 4	Schedule of General and Administrative Expenses

### ***Revenue Capacity***

This table contains information to help the reader assess the Program's significant operating revenues.

Table 5	Rates and Assessments
---------	-----------------------

### ***Economic and Demographic Information***

These tables offer economic and demographic indicators to help the reader understand the environment within which the Program's financial activities take place.

Table 6	Physicians, Hospitals, and Insurance Companies
Table 7	Virginia Demographic Statistics

### ***Operating Information***

These tables contain operating and claimant data to help the reader understand how the information in the Program's financial report relates to the services the Program provides and the activities it performs.

Table 8	Number of Admitted, Deceased, and Active Claimants
Table 9	Number of Employees by Identifiable Activities

*Sources: Unless otherwise noted, the information in this Section is derived from the Program's comprehensive annual financial reports for the relevant years.*

Table 1

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Net Deficit by Component

Last ten fiscal years

<b>Year ended December 31</b>	<b>Invested in capital assets, net of related debt</b>	<b>Unrestricted deficit</b>	<b>Total net deficit</b>
2002	\$ 35,224	(81,918,097)	(81,882,873)
2003	26,632	(76,529,331)	(76,502,699)
2004	26,887	(99,184,336)	(99,157,449)
2005	19,755	(125,181,112)	(125,161,357)
2006	16,302	(129,328,796)	(129,312,494)
2007	10,504	(127,646,193)	(127,635,689)
2008 – adjusted for adoption of GASB 52	11,074	(180,804,837)	(180,793,763)
2009	9,130	(146,830,018)	(146,820,888)
2010	14,943	(149,115,714)	(149,100,771)
2011	24,302	(98,678,241)	(98,653,939)

See accompanying independent auditors' report.

Table 2

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Schedule of Revenues, Expenses, and Changes in Fund Net Assets (Deficit)

Last ten fiscal years

	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>	<u>2004</u>	<u>2003</u>	<u>2002</u>
Operating revenues:										
Participating hospitals	\$ 3,623,350	3,771,265	3,750,364	3,373,339	2,715,783	2,926,900	2,753,450	2,730,909	2,357,975	2,256,000
Participating physician:	3,868,705	3,811,821	3,532,187	3,358,073	3,223,346	2,843,793	2,342,449	2,211,184	1,860,843	1,554,790
Mandated physician fees:	4,362,116	4,214,365	4,170,750	3,992,183	3,747,915	3,734,266	3,444,676	3,436,378	3,148,690	3,252,200
Insurance fees	11,861,936	12,273,510	12,620,887	12,830,024	12,641,617	11,945,795	11,314,150	9,948,858	8,993,616	8,042,558
Other	759	8,528	54	71	21,296	136,676	—	100	124,914	—
Total operating revenues	<u>23,716,866</u>	<u>24,079,489</u>	<u>24,074,242</u>	<u>23,553,690</u>	<u>22,349,957</u>	<u>21,587,430</u>	<u>19,854,725</u>	<u>18,327,429</u>	<u>16,486,038</u>	<u>15,105,548</u>
Operating expenses:										
Provision for claims, net	(24,790,373)	50,458,868	26,572,068	33,458,390	38,009,839	44,254,224	51,853,223	47,963,625	20,621,718	19,600,653
General and administrator:	268,151	212,856	196,161	188,126	197,353	188,573	183,164	136,569	129,397	168,682
Total operating expenses	<u>(24,522,222)</u>	<u>50,671,724</u>	<u>26,768,229</u>	<u>33,646,516</u>	<u>38,207,192</u>	<u>44,442,797</u>	<u>52,036,387</u>	<u>48,100,194</u>	<u>20,751,115</u>	<u>19,769,335</u>
Operating gain	48,239,088	(26,592,235)	(2,693,987)	(10,092,826)	(15,857,235)	(22,855,367)	(32,181,662)	(29,772,765)	(4,265,077)	(4,663,787)
Nonoperating revenue (expense):										
Net investment income and miscellaneous	2,207,744	24,312,352	36,666,862	(44,874,949)	17,534,040	18,704,230	6,177,754	7,118,015	9,645,251	3,948,476
Change in net assets (deficit)	50,446,832	(2,279,883)	33,972,875	(54,967,775)	1,676,805	(4,151,137)	(26,003,908)	(22,654,750)	5,380,174	(715,311)
Net assets (deficit) at beginning of year	<u>(149,100,771)</u>	<u>(146,820,888)</u>	<u>(180,793,763)</u>	<u>(127,635,689)</u>	<u>(129,312,494)</u>	<u>(125,161,357)</u>	<u>(99,157,449)</u>	<u>(76,502,699)</u>	<u>(81,882,873)</u>	<u>(81,167,562)</u>
Net assets (deficit) at end of year	<u>\$ (98,653,939)</u>	<u>(149,100,771)</u>	<u>(146,820,888)</u>	<u>(182,603,464)</u>	<u>(129,312,494)</u>	<u>(125,161,357)</u>	<u>(99,157,449)</u>	<u>(76,502,699)</u>	<u>(81,882,873)</u>	<u>(81,882,873)</u>

See accompanying independent auditors' report.

Table 3

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Analysis of Average Cost per Active Claimant

Last ten fiscal years

Year	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002
Claims expense	\$ 13,109,627	11,858,868	11,372,049	11,658,390	10,209,839	11,054,225	9,453,223	6,863,625	6,021,718	5,700,653
Number of active claimants	127	117	113	111	109	96	91	82	74	67
Average expense per claimant	\$ 103,225	101,358	100,638	105,031	93,668	115,148	103,882	83,703	81,375	85,084
Percent increase or decrease from prior year	1.84%	0.72%	(4.18)%	12.13%	(18.65)%	10.84%	24.11%	2.86%	(4.4)%	(17.2)%
<b>Breakdown of claims expenses into major categories</b>										
Category	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002
Nursing	\$ 8,531,487	7,990,795	7,194,528	6,983,584	6,448,647	6,186,118	5,541,310	4,372,664	2,896,420	2,603,363
Physician/Hospital	77,828	78,057	59,474	68,119	96,123	81,115	63,976	142,664	239,531	495,169
Therapy	339,347	310,829	219,303	254,923	254,876	231,712	197,991	111,324	121,300	124,756
Incidentals	153,112	172,224	139,064	193,317	151,903	179,888	181,039	128,642	122,361	80,536
Prescription	91,233	130,381	151,905	135,239	127,809	115,265	104,329	76,789	114,313	127,646
Housing	409,937	423,352	839,436	1,360,826	756,673	1,445,145	937,368	327,912	825,924	819,457
Van	574,437	385,084	351,673	526,513	501,827	863,555	734,953	315,917	546,992	189,613
Medical equipment	158,558	160,510	166,926	211,562	188,897	319,405	162,970	219,142	95,923	121,214
Legal fees – claimant	371,045	165,164	165,654	299,892	283,809	470,204	350,667	315,917	51,986	243,167
Legal fees – attorney general	180,000	170,000	117,500	150,000	150,000	187,500	225,000	—	—	—
Auto/Health insurance	134,082	150,137	141,193	143,283	150,940	120,678	104,718	97,893	73,595	10,913
Mileage reimbursement	67,956	78,081	41,689	73,978	49,276	72,480	32,342	27,822	32,315	8,589
Wage benefit payment	698,454	501,407	334,207	245,052	97,163	—	—	—	—	—
WCC ordered award	200,000	164,820	595,850	200,000	—	—	—	—	—	—
Claimant related administrative	1,072,606	851,426	784,645	752,504	789,413	754,290	732,654	600,000	562,500	495,000
Other	49,545	126,601	69,002	59,598	162,483	26,870	83,906	126,939	338,558	381,230
Total claims expense	\$ 13,109,627	11,858,868	11,372,049	11,658,390	10,209,839	11,054,225	9,453,223	6,863,625	6,021,718	5,700,653
Percent increase or decrease from prior year	10.55%	4.28%	(2.46)%	14.19%	(7.64)%	16.94%	37.73%	13.98%	5.6%	(7.5)%
<b>Percentage of expense per total claims expense</b>										
Category	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002
Nursing	65.08%	67.38%	63.27%	59.90%	63.16%	55.96%	58.62%	63.71%	48.10%	45.67%
Physician/Hospital	0.59	0.66	0.52	0.58	0.94	0.73	0.68	2.08	3.98	8.69
Therapy	2.59	2.62	1.93	2.19	2.50	2.10	2.09	1.62	2.01	2.19
Incidentals	1.17	1.45	1.22	1.66	1.49	1.63	1.92	1.87	2.03	1.41
Prescription	0.70	1.10	1.34	1.16	1.25	1.04	1.10	1.12	1.90	2.24
Housing	3.13	3.57	7.38	11.67	7.41	13.07	9.92	4.78	13.72	14.37
Van	4.38	3.25	3.09	4.52	4.92	7.81	7.77	4.60	9.08	3.33
Medical equipment	1.21	1.35	1.47	1.81	1.85	2.89	1.72	3.19	1.59	2.13
Legal	2.83	1.39	1.46	2.57	2.78	4.25	3.71	4.60	0.86	4.27
Legal fees – attorney general	1.37	1.43	1.03	1.29	1.47	1.70	2.38	—	—	—
Auto/Health insurance	1.02	1.27	1.24	1.23	1.48	1.09	1.11	1.43	1.22	0.19
Mileage reimbursement	0.52	0.66	0.37	0.63	0.48	0.66	0.34	0.41	0.54	0.15
Wage benefit payment	5.33	4.23	2.94	2.10	0.95	—	—	—	—	—
WCC ordered award	1.53	1.39	5.24	1.72	—	—	—	—	—	—
Claimant related administrative	8.18	7.18	6.90	6.45	7.73	6.82	7.75	8.74	9.34	8.68
Other	0.38	1.07	0.61	0.51	1.59	0.24	0.89	1.85	5.62	6.69
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Change in claims provision	\$ (37,900,000)	38,600,000	15,200,000	21,800,000	27,800,000	33,200,000	42,400,000	41,100,000	14,600,000	13,900,000
Nonclaims related administrative	268,151	212,856	196,161	188,126	197,353	188,573	183,164	136,569	129,397	168,682
Total operating expense	\$ (24,522,222)	50,671,724	26,768,210	33,646,516	38,207,192	44,442,798	52,036,387	48,100,194	20,751,115	19,769,335

## Notes:

1. Active claimants are the total admitted claimants less deceased
2. Other expenses may include medical review, therapeutic toys, computer equipment, funeral expense and medical service do

See accompanying independent auditors' report.

Table 4

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Schedule of General and Administrative Expenses

Last ten fiscal years

	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>	<u>2004</u>	<u>2003</u>	<u>2002</u>
Advertising and brochures	\$ 1,610	1,059	2,177	3,841	1,533	4,260	5,249	11,980	35,350	54,139
Computer services	25,194	11,946	13,065	10,672	10,028	9,558	13,226	12,758	16,159	13,123
Depreciation and amortization	5,960	1,866	5,936	4,299	6,504	8,669	10,528	11,536	10,993	10,458
Office	11,107	10,486	14,409	11,623	7,714	9,460	7,771	6,785	7,256	8,455
Other	26,707	24,419	24,002	22,974	34,130	48,090	55,111	34,541	39,457	46,376
Postage and mailing	6,029	6,263	8,071	11,100	10,292	8,879	9,909	12,790	13,254	10,348
Professional fees	510,241	367,967	280,842	234,935	327,188	282,766	286,744	174,480	158,413	119,515
Rent	66,551	65,365	68,008	62,844	60,957	60,589	59,143	53,498	52,216	48,397
Salaries and benefits	679,781	567,446	556,899	568,263	518,682	502,315	458,511	352,770	345,988	334,745
Telephone	7,577	7,465	7,397	10,079	9,736	8,277	9,625	11,709	12,811	16,124
	<u>1,340,757</u>	<u>1,064,282</u>	<u>980,806</u>	<u>940,630</u>	<u>986,764</u>	<u>942,863</u>	<u>915,817</u>	<u>682,847</u>	<u>691,897</u>	<u>661,680</u>
Less claims administration (allocated)	<u>1,072,606</u>	<u>851,426</u>	<u>784,645</u>	<u>752,504</u>	<u>789,411</u>	<u>754,290</u>	<u>732,654</u>	<u>546,278</u>	<u>562,500</u>	<u>495,000</u>
Unallocated expenses	<u>\$ 268,151</u>	<u>212,856</u>	<u>196,161</u>	<u>188,126</u>	<u>197,353</u>	<u>188,573</u>	<u>183,163</u>	<u>136,569</u>	<u>129,397</u>	<u>166,680</u>

See accompanying independent auditors' report.

Table 5

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Rates and Assessments

Last ten fiscal years

	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>	<u>2004</u>	<u>2003</u>	<u>2002</u>
Participating physicians	\$ 6,000	5,900	5,600	5,400	5,300	5,200	5,100	5,000	5,000	5,000
Non participating physician:	300	300	300	290	280	270	260	250	250	250
	\$55/live birth not to exceed	\$55/live birth not to exceed	\$52.50/live birth not to exceed	\$50/live birth not to exceed						
Hospitals	\$ 200,000	200,000	200,000	190,000	180,000	170,000	160,000	150,000	150,000	\$150,000
Insurance companies estimated net direct premiums subject to assessment	\$ 4,744,774,400	4,909,404,000	5,048,354,800	5,132,009,600	5,056,646,800	4,778,318,000	4,525,660,000	3,979,543,200	3,597,446,400	3,217,023,200

## Notes:

Insurance companies pay one quarter of one percent of net direct premiums written, however, only the liability portion of the premium is assessable as determined by the Virginia Workers Compensation Commission

Legislation states (§38.2-5020 E) that if required to maintain the Program on an actuarially sound basis, liability insurers shall pay an assessment to the Program. During the years 1998 through 2001, the Program was considered actuarially sound by the Virginia State Corporation Commission and insurance carriers were not required to pay. During the years 2003 through 2011 the Program was determined to be actuarially unsound and the liability insurers were required to pay

Legislation states (§38.2-5020 G) that if the Virginia State Corporation Commission determines the Program is actuarially sound it will suspend the assessment on nonparticipating physicians. The assessment will be reinstated if it is determined that the assessment is required to maintain actuarial soundness. During the years 1998 through 2001, the Program was considered actuarially sound and nonparticipating physicians were not required to pay. During the years 2003 through 2011, the Program has been determined not actuarially sound and the assessment was reinstated.

See accompanying independent auditors' report.

Table 6

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Physicians, Hospitals, and Insurance Companies

Last ten fiscal years

	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002
Participating:										
Doctors	676	678	648	653	622	577	536	508	410	358
Residents	—	—	—	88	77	155	147	456	174	131
Total participating physicians	676	678	648	741	699	732	683	964	584	489
Mandatory:										
Total mandatory physicians	14,554	14,055	14,076	13,797	13,817	13,597	13,219	13,445	12,200	12,413
Delinquent:										
Total delinquent physicians	2,932	2,769	2,670	1,893	1,184	621	737	648	978	1,502
Exempt:										
E1	1,934	1,955	1,856	1,903	1,852	1,733	1,723	1,701	405	1,282
E2	903	954	1,876	2,777	2,739	3,145	2,252	2,742	1,614	2,482
E3	1,349	1,514	1,457	1,547	1,443	1,596	1,458	1,544	480	1,528
E4	183	194	195	204	179	168	167	170	55	170
E5	3,770	3,697	3,471	3,789	3,661	4,189	3,982	4,085	1,144	3,812
E6	372	—	—	531	800	546	442	15	48	1,284
Total exempt physicians	8,511	8,314	8,855	10,751	10,674	11,377	10,024	10,257	3,746	10,558
Total physicians	26,673	25,816	26,249	27,182	26,374	26,327	24,663	25,314	17,508	24,962
Hospitals	37	37	38	38	31	33	32	33	29	23
Insurance Companies	521	504	505	503	506	495	496	484	497	497

## Notes:

State law allows a physician to be exempt from paying the mandated assessment if one of the five following criteria are met:

- E1. Employed by the Commonwealth of Virginia or federal government and income from professional fees from a source other than the Commonwealth of Virginia federal government is less than 10% of annual salary
- E2. Enrolled in a full-time graduate medical education program accredited by the American Council for Graduate Medical Education
- E3. Retired from active medical practice
- E4. Engaged in active clinical practice that was limited to the provision of services, voluntary and without compensation, to any patient of any clinic organized whole or in part for the delivery of health care services without charge
- E5. Not practicing medicine in Virginia (either not currently practicing or practicing in another state)
- E6. The above exemption numbers are due to undeliverable addresses returned by the Post Office

Physicians that are delinquent as of year end are turned over to the Virginia State Corporation Commission, Division of Insurance.

Legislation states (§38.2-5020 E) that if required to maintain the Program on an actuarially sound basis, liability insurers shall pay an assessment to the Program. During the years 1998 through 2001, the Program was considered actuarially sound by the Virginia State Corporation Commission and insurance carriers were not required to pay. During the years 2003 through 2011 the Program was determined to be actuarially unsound and the liability insurers were required to pay.

Legislation states (§38.2-5020 G) that if the Virginia State Corporation Commission determines the Program is actuarially sound it will suspend the assessment on nonparticipating physicians. The assessment will be reinstated if it is determined that the assessment is required to maintain actuarial soundness. During the years 1998 through 2001, the Program was considered actuarially sound and nonparticipating physicians were not required to pay. During the years 2003 through 2011, the Program has been determined not actuarially sound and the assessment was reinstated.

See accompanying independent auditors' report.

Table 7

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Virginia Demographic Statistics  
Last ten fiscal years

	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>	<u>2004</u>	<u>2003</u>	<u>2002</u>
Note:										
1 Population	N/A	8,001,024	7,882,590	7,769,089	7,712,091	7,642,884	7,567,465	7,460,066	73,863,360	7,923,848
1 Number of births	N/A	102,934	104,979	106,578	108,417	106,474	104,488	103,830	100,561	99
2 Number of petitions filed	12	12	10	9	15	10	16	17	11	12
2 Number of claimants awarded	14	5	8	8	15	8	14	10	11	8
3 Total personal income (in thousands)	\$	355,054,942	347,630,625	348,893,800	321,245,259	306,918,105	286,685,185	267,520,630	250,605,455	240,533,600
3 Per capita personal income	N/A	44,246	44,129	44,756	41,727	40,234	37,988	35,886	34,034	33,055
4 Unemployment rate	6.2%	6.9%	6.8%	4.0%	3.0%	3.0%	3.5%	3.7%	4.1%	4.2%

Note:

- 1 Statistics provided by the Virginia Center for Health Statistics
  - 2 Statistics provided by Program management
  - 3 Statistics provided by the Bureau of Economic Analysis
  - 4 Statistics provided by the LAUS Unit and Bureau of Labor Statistics
- About 85% of births are covered by either participating hospitals or physicians

N/A – not available

See accompanying independent auditors' report.

Table 8

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**  
Number of Admitted, Deceased, and Active Claimants  
Last nine fiscal years

	Total year end 2002	2003 Activity	Total year end 2003	2004 Activity	Total year end 2004	2005 Activity	Total year end 2005	2006 Activity	Total year end 2006	2007 Activity	Total year end 2007	2008 Activity	Total year end 2008	2009 Activity	Total year end 2009	2010 Activity	Total year end 2010	2011 Activity	Total year end 2011
Admitted	76	11	87	10	97	14	111	8	119	15	134	8	142	8	150	5	155	14	169
Deceased*	8	2	10	1	11	2	13	3	16	1	17	3	20	3	23	—	23	3	26
Deceased on award**	1	2	3	1	4	3	7	—	7	1	8	3	11	3	14	1	15	1	16
Total deceased	9		13		15		20		23		25		31		37		38		42
Active	67		74		82		91		96		109		111		113		117		127

## Notes:

\* Number of children in the Program that became deceased subsequent to their award  
 \*\* Number of children that were deceased at the time of award to the Program

See accompanying independent auditors' report.

Table 9

**VIRGINIA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION PROGRAM**

Number of Employees by Identifiable Activities

Last ten fiscal years

<b>Activity</b>	<b>2011</b>	<b>2010</b>	<b>2009</b>	<b>2008</b>	<b>2007</b>	<b>2006</b>	<b>2005</b>	<b>2004</b>	<b>2003</b>	<b>2002</b>
Executive director	1	1	1	1	1	1	1	1	1	1
Finance division	3	3	3	3	2	2	2	2	2	2
Claims and administrator	6	6	6	6	6	5	5	5	4	4

See accompanying independent auditors' report.

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## COMPLIANCE SECTION



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Richmond, VA 23219-4023

**Independent Auditors' Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance With *Government Auditing Standards***

The Board of Directors  
Virginia Birth-Related Neurological  
Injury Compensation Program:

We have audited the basic financial statements of Virginia Birth-Related Neurological Injury Compensation Program (the Program) as of and for the year ended December 31, 2011, and have issued our report thereon dated May 29, 2012. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

**Internal Control over Financial Reporting**

Management of the Program is responsible for establishing and maintaining effective internal control over financial reporting. In planning and performing our audit, we considered the Program's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the basic financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Program's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Program's internal control over financial reporting.

A deficiency in internal control over financial reporting exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

**Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the Program's basic financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.



This report is intended solely for the information and use of management, the Board of Directors, the Commonwealth of Virginia, and others within the Program and is not intended to be and should not be used by anyone other than these specified parties.

KPMG LLP

May 29, 2012