

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for November 10, 2015 - Draft**

Attendees:

David Barrett - Chair
Lydia Byrd
Rebecca Filla, M. D.
Neal Schulwolf, Esq. – Vice Chair
John Seeds, M. D.

Also Present:

Drew Mucci, Sarah Mucci, Valerie Barnes & Elliot Barnes
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 10:40 a.m.

Introductions:

Mr. Barrett welcomed guests and the Board members, the Program's staff, and the Board's counsel, Assistant Attorney General Carla R. Collins, introduced themselves to those present.

Minutes:

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

Finance:

Mr. Deebo stated that there were no special notations to report with the September financials. As of September 30th, there were two new claimants awarded into the Program making a total of 194 admitted claimants, comprised of 147 active claimants and 47 deceased claimants. All mailings for participation in the Program and mandated billings have been sent out.

Investments:

Mr. Barrett reviewed the Investment Report that shows a 3.7% increase in investments. The total fund allocation shows a market value at \$388 million. Mr. Barrett stated that

the market is still volatile pending the possible increase of interest rates expected by the end of the year.

Public Comment:

Mr. and Mrs. Mucci and Mr. and Mrs. Barnes addressed the Board regarding their request for housing modifications. At the conclusion, Mr. Barrett thanked them for coming and taking the time to address the Board.

Closed Session (Claimants' Issues and Authorization/Approval of Settlements):

Mr. Schulwolf moved in accordance with the provisions of Sections 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 Dr. Seeds 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 each certified the motion.

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

Dr. Seeds moved that the Board table the request in case number B-10-06 and instruct Program's construction consultant to review the housing modifications medically necessary to accommodate the claimant. Dr. Filla seconded the motion and it passed unanimously.

Dr. Seeds moved that the Board table the request in case number B-05-08 until a letter from the Claimant's treating physician explains how the sports activity and requested equipment is medically necessary for the Claimant's condition. Additional information as to the duration the Claimant can qualify for the sports program and the availability of a lease option on the requested equipment also needs to be attained and assessed. Mr. Schulwolf seconded the motion and it passed unanimously.

Mr. Schulwolf moved, concerning case number B-07-03 that the Board approve as requested a medically necessary replacement van with additional funding. Dr. Filla seconded the motion and it passed unanimously.

Dr. Filla moved that the Board table the request in case number B-06-08 and instruct Program staff to obtain information as to why the requested upgraded van is medically necessary. Mr. Schulwolf seconded the motion and it passed unanimously.

Closed Session (Case Updates/New Business – Delegation of Authority to Director):

Mr. Barrett 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.

The motion was seconded by Mr. Schulwolf and passed unanimously.

CERTIFICATION

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;

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(ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board.

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

Results of Closed Session (Case Updates/New Business – Delegation of Authority to Director:

Mr. Schulwolf moved that the Board approve Delegation of Authority documents. Dr. Seeds seconded the motion and it pass unanimously.

Adjournment:

Mr. Barrett, Chair, adjourned the meeting at 12:25 p.m.