

Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for May 10, 2016 - Draft

Attendees:

Dave Barrett - Chairman
Neal Schulwolf, Esq. – Vice Chairman
Lydia Byrd
Rebecca Filla, M. D.
Vanessa Rakestraw, Ph. D., C. R. C.
Rhonda Russell, A. I. C. P., M. P. A.
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:

Dave Barrett, Chairman, called the meeting to order at 10:40 a.m.

Introductions:

Board members, Program staff and the Assistant Attorney General introduced themselves to the new Board member, Rhonda Russell.

Minutes:

Dr. Seeds moved to approve the April minutes with revisions recommended by Assistant Attorney General Carla Collins. Vice Chairman Schulwolf seconded the motion and it passed unanimously.

Finance:

Deputy Director Thomas stated that the Program had \$401 million in investments through March of 2016, as compared to \$402 million in the previous year. Deputy Director Thomas reported that the Program had one deceased claimant in the month of February. A new claimant was admitted into the Program in March making a total of 153 active claimants as of the end of March.

Investments:

Chairman Barrett reported that the Investment Committee met with The Colony Group prior to the beginning of the Board meeting. Investments are up 1.1% to date for this year. This is consistent with investment levels nationally. Chairman Barrett noted that

the Investment Committee voted to move a portion of the Program's investments out of Treasuries and other fixed income accounts. Director Deebo advised the Board that he is waiting to hear the status of a candidate nominated to replace Chairman Barrett as the Board's Investment Representative. Vice Chairman Schulwolf moved to approve the Financial and Investment Reports. Dr. Filla seconded the motion and it passed unanimously.

Public Comment:

None.

Closed Session (Legal/Claimant Issues/Pending Cases):

Vice Chairman 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. Rakestraw and passed unanimously. Assistant Attorney General Carla Collins left the room upon Director Deebo's request and returned for the remainder of the Closed Session upon Director Deebo's request.

CERTIFICATION

Vice Chairman 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 (Claimant Issues/Pending Cases):

B-10-06: Vice Chairman Schulwolf moved to delegate to Program staff and legal counsel the authority to complete the negotiation process on behalf of the Board to resolve this matter in accordance with the terms, conditions and limitations on authority as discussed and approved by the Board. The motion was seconded by Dr. Filla and it passed unanimously by the Board.

B-16-02: Vice Chairman Schulwolf moved to delegate to Program staff and legal counsel the authority to complete the negotiation process on behalf of the Board to resolve this matter in accordance with the terms, conditions and limitations on authority as discussed and approved by the Board. The motion was seconded by Dr. Filla and it passed unanimously by the Board.

B-12-10: Vice Chairman Schulwolf moved that the Board authorize legal counsel to defend the Program's position before the Court of Appeals if the Healthcare Providers appeal the full Commission's Opinion in this case; but not to appeal the full Commission's decision regarding jurisdiction independently. The motion was seconded by Dr. Filla and it passed unanimously by the Board.

New Business:

Vice Chairman Schulwolf, representing the Board, thanked Chairman Barrett for his service on the Board and noted that he will be missed as a valuable Board member.

Executive Director's Comments:

None.

Adjournment:

Mr. Barrett, Chairman, adjourned the meeting at 12:10 p.m.