Virginia Birth-Related Neurological Injury Compensation Program

Board of Directors Meeting Minutes
April 8, 2025 - DRAFT

Attendees:
David Ratz, Esq., Chair
Ronald Ramus, M.D.
Kevin Logan, Esq.
Michael Hoover, C.F.A.
John Gordon, C.P.A.
Patricia Byrnes-Schmehl
M. Cathy Slusher, M.D.

Also Present:
Dawn McCoy, M.P.P., Executive Director
William "Billy" Johnston, Chief Financial Officer
Ronda Holloway, Operations Manager
Alexander Smith, Claims Manager
Hanna Bareford, Human Resources Assistant
Adonica Baine, Assistant Attorney General, Office of the Attorney General
Calvin Brown, Senior Assistant Attorney General, Office of the Attorney General
Gwendolyn Kelley, parent of an admitted claimant
Martinez Kelley, parent of an admitted claimant
Yvonne Kelley, admitted claimant
Ann Jones, Esq., Jones & Rostant, P.C.
Kevin Jones, Jones & Rostant, P.C.
Marissa Goldsmith, parent of an admitted claimant
Alan Polsky, Esquire, grandparent of an admitted claimant
Erin Ozment, parent of an admitted claimant
Sarah Paskins, parent of an admitted claimant
Billy Paskins, parent of an admitted claimant
Mia Enders, parent of an admitted claimant

Call to Order:
Chairman Ratz called the meeting to order at 10:30 a.m.

Introduction of Participants:
All those present introduced themselves.

Minutes:

Board Chair Ratz motioned to discuss the March 11, 2025, Board meeting Minutes and Member Kevin Logan seconded the Motion.

Ms. Marissa Goldsmith, the parent of an admitted claimant, interjected a comment and stood up during the Board's deliberation to share that her name was misspelled and that her complaint about third-party communication was inaccurately recorded in the meeting Minutes for March 11, 2025.

Board Chair Ratz requested a Motion to Table the March 11, 2025, Minutes' approval at the May 13, 2025, meeting, pending corrections. Member John Gordon motioned to Table the Minutes' approval, seconded by Member Michael Hoover. The Motion was voted upon and passed unanimously.

Public Comment:

Ms. Gwendolyn Kelley, the parent of an admitted claimant, raised concerns about the lack of reimbursement for a bathroom renovation, a home modification, and new flooring in their Trust Home. She shared that despite multiple inquiries to contact the Fund, she indicated that the Program staff have not provided a response. She also highlighted the difficulty of pushing her daughter's wheelchair on grass for a concrete pathway outside the home. Additionally, she noted concerns with the rejection of an annual termite inspection that had historically been covered by the Program's Fund.

Ms. Sarah Paskins, mother of an admitted claimant, expressed frustration that none of the issues she raised at the last meeting had been resolved. She reported that claim reimbursement payments have stopped, with no payments received for February or March 2025, and no communication regarding the timesheets. She cited receiving an email last week requesting the submission of documents for the third time due to a new employee starting at the fund. Her daughter has always required $1,200 worth of glasses care every six months, but stated communication with the Program has been lacking ---citing staff were unaware of the policy on vision treatment. Ms. Paskins also discovered that two doctors who have treated her daughter are employed by the Program, which she believes is a conflict of interest, as she shared that they have unfiltered access to her daughter's medical records. She expressed her opinion that there are no available pediatric neurologists and PM&R doctors within a 30-mile radius of Richmond who are not employed by the Program.

Mr. Alan Polsky, Esquire, the grandparent of an admitted claimant, criticized the proposed Communication Policy, stating that requiring complaints to be submitted 14 days in advance is inappropriate. He raised concerns that this Policy limits the ability to address issues promptly and places unnecessary restrictions on written materials. He urged that Public Comment should not be time restricted. He noted that issues from the last meeting had not been addressed.

Ms. Marissa Goldsmith, the mother of an admitted claimant, reported multiple overpayments and unresolved issues with the Program's Fund. She detailed instances of overpayments for January and February 2025, including double reimbursements and additional checks, totaling almost $500 in overpayments for the past month. Despite these overpayments, she cited outstanding amounts for physical therapy remain unresolved since the last Program Board meeting. Ms. Goldsmith expressed frustration with the lack of timely responses to her emails and confusion over submission processes because of the staff's misdirection. She raised concerns about the Portal's security, no improvements in customer service, issues with direct deposit despite her repeated requests to have it revoked, instances of misdirected confidential communications, and potential forgery of her signature to submit documents through the Portal. She stated she submitted a Freedom of Information Act (FOIA) request and received a Jotform contract but no documents for usability testing or software development. She also mentioned speaking with other families who have experienced similar issues with unpaid agencies and caregivers, and misdirected communications. Ms. Goldsmith also highlighted that she had the understanding that there was a lack of training materials and standard procedures for the Program's staff.

Ms. Erin Ozment, the parent of an admitted claimant, expressed concern that the March 11, 2025, Minutes were not posted on the Program's website in the time required by the statute. She cited the lack of Program staff communication following her appeal approval from the last Board meeting and distrust of the Portal due to its apparent lack of HIPAA compliance. She also mentioned issues with payments to providers and businesses, and the need for a virtual participation option for claimants as well. Additionally, she highlighted a problem with Home Care Delivered, stating that when she contacted them, that they were unaware of any partnership with the program and only worked with Medicare patients. Despite being informed by Ms. McCoy that the team will address this issue, she has not received any updates.

Ms. Ann Jones, Esq., a legal representative who identified herself as the lawyer for many claimants in the Program, highlighted the need for better documentation and explanation

of benefits for reimbursements, stressing the importance of providing clear information to admitted claimant families.

Finance:

Ms. McCoy introduced the new Chief Financial Officer (CFO), Billy Johnston, to provide an update on the 2022-2024 audits and related finance matters for the Program. He shared that the team has been working on bank reconciliations, closing books, and starting to implement new procedures. Director McCoy shared that they are considering a new accounting firm of auditors as well as ones used by the Program in the past, including KPMG and Yount Hyde and Barbour (YHB), the incumbent accounting firm, based on pricing and capacity. Member Ramus requested a request for proposal (RFP) to be presented at the next Board meeting. Mr. Gordon asked for potential candidates to submit internal and public audits. Ms. McCoy shared that she would ensure that staff add this to the criteria for the list of firms being considered.

Director McCoy also provided an update on the 2025 Budget, stating it has not been finalized yet for review. She asked the Board to consider an *ad hoc* committee to provide support for the staff development of the Budget. She mentioned that staff have been focused on launching the proposed third-party engagements for claim management. Board Chair Ratz agreed to Table the consideration of the Budget until the next Board meeting.

Investment:

Member Hoover provided an update on the Investment Committee's activities. He reviewed Appendix A, noting minor adjustments, including changes to equity and cash limits.

Member Slusher motioned to approve the update, seconded by Member Gordon. The Motion was voted upon and passed unanimously.

Member Hoover discussed the portfolio performance through September 2024, highlighting a return of 11.7 percent. He shared that the Program has a 20-year investment horizon with an annual return target of 7 percent. He stated the focus of the March investment meeting was market updates and investment allocation. Member Gordon asked about the impact of the national financial climate, and Member Hoover stated that the committee is continuously monitoring the situation.

Communication Policy:

Mr. Calvin Brown introduced Ms. Adonica Baine, a new legal representative from the Office of the Attorney General. He explained that he proposed and drafted the new

Communication Policy shared with Director McCoy on the evening of April 7th to provide an additional way for claimants to communicate with the Board besides through public comments and appeals. Chairman Ratz raised concerns about the Policy's interaction with laws such as HIPAA. Mr. Brown cited for Board Chair Ratz that the Policy would be separate and would not affect existing statutes or regulations. Board Chair Ratz noted that the Board and staff required time for consideration and mentioned that the Board would review and discuss the Policy at the next meeting.

Third-Party Update:

Mr. Ratz moved to delegate authority to the Executive Director regarding hiring the third-party administrator. The Motion was seconded by Ms. Schmehl.

Ms. McCoy explained that the current third-party administrator's (TPA) Agreement, in place since 2017, will terminate on May 8th due to a notice of termination and breaches of contract. The search for a short-term TPA is underway, with a six-month emergency contract expected. The new TPA should have statewide or national capabilities, with a focus on customer service, HIPAA compliance, and timely processing of claims. Two potential short-term TPAs have been identified, with one on standby and ready to start immediately. Member Gordon inquired about the cost associated with the implementation. Director McCoy estimated it to be around $200,000 annually, with a 6-month contract being a fraction of that.

The Motion to delegate authority to Ms. McCoy was voted upon and unanimously passed.

Property Management:

Board Chair Ratz motioned to discuss delegating authority to the Executive Director to hire a new third-party trust home administrator. The Motion was seconded by Member Gordon.

Director McCoy discussed the status of the 15 Trust Homes owned and managed by the Program. At the beginning of the year, the Program conducted a review of the property manager's efforts to maintain the homes and found that some expenses and requests were outside the scope of the Occupancy Agreements and the property management agreement. Chesapeake Wealth Management is the current Trustee and property management company under contract with the Program; however, they have indicated they will be stepping down from their role. Alex Smith, Claims Manager, is overseeing the Program's transition as they work with the Chesapeake Wealth Management team and the finance team to find a new provider for property management.

Board Member Ratz inquired about the transition timeline, and Director McCoy confirmed that the agreement with Chesapeake Wealth Management ends at the end of April. Chesapeake Wealth Management has a small team of two who are being proactive during this transition period to ensure a smooth transition. A temporary replacement will be in place in April, followed by a full-time replacement after the proper procurement process has been completed.

Mr. Ratz asked about measures to fill any gaps during the transition. Director McCoy mentioned that Chesapeake Wealth Management can extend one person to help and lengthen the contract to ease the transfer process. She shared that the team has identified two potential temporary replacements who can provide regional support, are knowledgeable about ADA compliance, and have the capacity to handle more work.

Board Chair Ratz asked why the current provider could not handle the Program's needs. Director McCoy explained that Chesapeake Wealth Management could not handle the capacity of work required anymore, and the Program has outgrown its services. She noted there have also been discussions about someone being available after hours for emergencies.

Board Chair Ratz moved to vote on delegating the authority to the Executive Director to secure a third-party administrator temporarily while they conduct the proper procurement process for a permanent replacement. The Motion was seconded by Member Gordon, voted upon, and passed unanimously.

Closed Session:

Board Chair Ratz moved to go into Closed Session at approximately 11:50 a.m.

In accordance with the provisions of §2.2-3711 (A)(8) and §2.2-3705.5 (11) of the Code of Virginia, he moved that the Board go into closed meeting for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefings 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 §38.2-5002.2; more specially, records concerning the deliberations of the

Board of Directors in connection with specific claims, as prevented from being disclosed by Virginia Code §38.2-5002.2 (iii).
Member John Gordon seconded the Motion. The Motion was voted upon and passed unanimously.

CERTIFICATION
Chair Ratz moved the adoption of the following resolution:

WHEREAS, the Virginia Birth-Related Neurological Injury Compensation Program's Board has convened in a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and **WHEREAS**, Section 2.2-3712 of the Code of Virginia requires a certification by this Board that such closed meeting was conducted in conformity with Virginia law: NOW, **THEREFORE, BE IT RESOLVED**, that the Virginia Birth-Related Neurological Injury Compensation Program's Board certifies that, to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the Board. Member John Gordon seconded the Motion. The members of the Board were polled individually and each certified the resolution.

Action as a Result of Closed Meeting:
Chairman Ratz motioned to have the Program further investigate and assess the claim and report back in the next Board meeting on the matter of B-07-15. Member Slusher seconded the Motion. The Motion was voted upon and passed unanimously.

Mr. Ratz motioned to approve $318,000 for the pre-Petition, expenses, and costs in the matter of B-24-14. Dr. Slusher seconded the Motion. The Motion was voted upon and passed unanimously.

Board Chair Ratz motioned to have the Executive Director investigate and report responses and response times that were addressed by claimant families in the Public Comment portion of the March 11, 2025, and the April 8, 2025, Board meetings. Member John Gordon seconded the Motion. The Motion was voted upon and passed unanimously.

New Business:
None

Executive Director's Comments:

Director McCoy stated that she would report back with updates for the Board at the next meeting and noted the change in the Board meeting schedule. The November 11th Board meeting will now be held on November 18th due to the Veteran's Day holiday.

Adjournment:

Board Chair Ratz motioned to Adjourn the meeting at 1:19 p.m. and it was seconded by Member Gordon. The Motion was voted upon and passed unanimously.