Virginia Birth-Related Neurological Injury Compensation Program

Board of Directors Meeting Minutes
May 13, 2025

Attendees:
David Ratz, Esq., Chair
Ronald Ramus, M.D.
Kevin Logan, Esq.
John Gordon, C.P.A.
Joel Dillon
M. Cathy Slusher, M.D.

Absent: Dr. James Camm, Mike Hoover, Patricia Schmehl

Also Present:
Dawn McCoy, M.P.P., Executive Director
Carla Collins, Chief Program Officer
Adonica Baine, Assistant Attorney General, Office of the Attorney General
Calvin Brown, Senior Assistant Attorney General, Office of the Attorney General
LaShaun King, Assurance Partner, BDO
Alexander Smith, Claims Manager
Ronda Holloway, Director of Operations
Hanna Bareford, Human Resources Assistant
Charlotte Spence, Communications & Operations Associate
Charmin Davis, Case Manager
Luca Powell, Richmond Times Dispatch
Billy Paskins, parent of an admitted claimant
Sarah Paskins, parent of an admitted claimant
Marissa Goldsmith, parent of an admitted claimant
Alan Polsky, Esquire, grandparent of an admitted claimant
William Johnston
Leslie Rubio
Anne Clingenpeel, support for Paskins
Candice Fens, support for Paskins
Anna Saplan, parent of an admitted claimant
Kim Thompson, 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 from Previous Meeting:

Board Chair Ratz motioned to discuss the April 8, 2025, Board meeting Minutes.

Member Cathy Slusher motioned to approve the Minutes and Member Joel Dillon seconded the Motion.

Chair Ratz moved to renew the Motion to approve the Minutes of the April 8, 2025, Board meeting, with the following correction: on page 4 of 8, under the "Investments" section, in the last paragraph, the word "continuously" is to be stricken. Member Cathy Slusher seconded the Motion, as amended. The amended Motion was voted upon and passed unanimously.

Public Comment:

Ms. Saplan stated that every child in the Program was court-appointed, and families are currently unpaid. She questioned whether the Program was operating in compliance with legal orders and asked if the Program was permitted to breach its contract while expecting others to uphold theirs.

Mr. Alan Polsky, Esquire, the grandparent of an admitted claimant, shared that he has attended several Board meetings and expressed concerns about the Program's financial safeguards, noting the absence of evidence for a security or fidelity bond. He referenced media reports about the finance team's resignation and stated that his questions regarding potential internal theft have gone unanswered. Mr. Polsky also mentioned that Executive Director McCoy has been unresponsive and criticized the Board for a lack of transparency. He called for direct accountability from the Board, which he feels has not engaged meaningfully with the public.

Ms. Marissa Goldsmith, the mother of an admitted claimant, expressed frustration, noting this was her third time speaking before the Board this year. She described ongoing issues with her reported late payments and HIPAA violations as well as unresolved reimbursements. Ms. Goldsmith mentioned that the Program has subjected her to additional processes to care for her family. She noted her frustration with the resignation

of the previous CFO and the finance team, who were initially portrayed as solutions. She reported that families have faced difficulties with tax reimbursements, unpayable checks, and incomplete responses to FOIA requests. Ms. Goldsmith stated that staff appear inconvenienced by these FOIA requests and reiterated that transparent operations would negate the need for such actions. She concluded by stating that the Program's issues with contractors and frequent negative media coverage illustrate ongoing dysfunction and lack of improvement.

Ms. Sarah Paskins, the mother of an admitted claimant, distributed binders to Board Members containing documentation of reported HIPAA violations and missed reimbursements as well as communications with Executive Director McCoy. She urged the Board to investigate the Executive Director's actions, stating that the Program is being mismanaged as if it were a commercial insurance company rather than a no-fault support structure. Ms. Paskins raised concerns about the Program's new contract with Rising Medical Solutions, which she noted specializes in cost-cutting and workers' compensation claims rather than long-term care. She further emphasized this point by stating that this approach contradicts the Program's mission and is inappropriate for the vulnerable population it serves.

Ms. Candice Fens asked whether families were now free to pursue lawsuits against hospitals and physicians due to the Program's breach of contract. She expressed her view that if the Board does not investigate the accusations being presented, they are just as complicit.

Audit:

Executive Director McCoy presented the finalist from the accounting firm selection search for the 2022-2024 audits. She introduced BDO as the recommended audit firm based on the previously agreed-upon criteria of timely completion, capacity to handle a large volume of work, and price.

La Shaun King, an assurance partner from BDO, presented an audit schedule with initial planning beginning in late June, audit fieldwork starting in July, and completion anticipated in late September or October.

Executive Director McCoy discussed BDO's national capacity and their advantage over competing options, highlighting their ability to handle the scale of work in a timely manner and work seamlessly with the current incumbent, Trustward.

Member Mike Hoover moved to approve BDO as the accounting firm to handle the 2022-2024 audits. Member Joel Dillon seconded the Motion. The Motion was voted upon and passed unanimously.

Budget:

Executive Director McCoy presented a draft budget for FY2025. She noted that the organization has not historically operated with an annual budget, and that one was deemed necessary following previous audit findings. She reviewed projected expenditures of approximately $33 million for operations and $59 million for claim-related payments, with administrative expenses accounting for about 11% of the total.

Member Cathy Slusher raised concerns that the amounts budgeted for nursing care, residential services, and prescriptions may be insufficient. Executive Director McCoy explained that projections were based on past expenditures; but acknowledged that costs may increase and adjustments would be made as needed. The Board requested clearer breakdowns of budget assumptions and variances. Executive Director McCoy agreed to refine the draft with staff and board member input for further discussion at a future board meeting. Board Chair Ratz asked members to provide input for Director McCoy.

Investment:

Board Chair Ratz shared that at the last Investment Committee meeting, they agreed to transition to an Outsourced Chief Investment Officer (OCIO) model. He explained that the current approach was too slow and did not allow for real-time market responsiveness. The OCIO model would enable delegated management based on Board guidance without requiring costly in-house staff.

Member John Gordon emphasized that selecting an OCIO is a complex and technical process requiring substantial due diligence. Member Slusher added that the additional oversight will be beneficial.

The Motion to engage an investment consultant to pursue recommendations for an OCIO was voted upon and passed unanimously.

Communication:

Board Chair Ratz re-opened the discussion concerning a proposed claimant Communications Policy from the previous Board meeting. The draft policy introduces a formal process for claimants to contact the Board outside of public comment. Board Members Ratz, Gordon, and Dillon volunteered to be on a committee dedicated to finalizing this Communication Policy with the Office of the Attorney General (OAG). Board members discussed logistics, including who would receive and respond to communications, and how messages would be triaged. Member Slusher emphasized the importance of central review to avoid the appearance of any individual Board member acting as a spokesperson and the need for immediate action to refine and approve this Policy.

Chairman Ratz reopened Public Comment.

Mr. Polsky, the grandparent of an admitted claimant, stated that he believes any claimant's correspondence should bypass the Executive Director and be routed directly to the Board, considering the allegations against Executive Director McCoy.

Ms. Paskins, the mother of an admitted claimant, reiterated her belief that the Executive Director should be removed and expressed frustration that the Board continues to prioritize administrative matters while families wait for services and assistance.

Mr. Paskins, the father of an admitted claimant, suggested that the Program have appropriate staff in place to help segregate emails and prevent accidental protocol breaches when the Board communicates.

Chairman Ratz stated that the committee would continue working on refining the Communication Policy and have a final draft ready for review at the June 10th Board Meeting.

Third-Party Administrator:

Executive Director McCoy provided an update on the transition to a new claims administrator, MC Innovations, which began onboarding the week of May 5th. This included setting up a portal. She directed attention to the packets that included helpful information about their services, contact number, email and login encryption, English and Spanish language services, and options for direct deposit or check processing. She noted that MC Innovations is nationally ranked and based locally in Richmond. She highlighted that the new portal offers real-time claim tracking and more accessible claimant interfaces. At the time of the meeting, 20% of claimants had completed onboarding. Training for claimants was scheduled for May 20-21, 25, and 29. She mentioned that they were very impressed with MC Innovations, which was one of two replacements considered. She also mentioned that the Program will be able to move forward with them as the incumbent, continuing services while ramping up the procurement process in the Fall.

Executive Director McCoy stated that a team of two people is dedicated to addressing the backlog of unpaid claims from the prior third-party administrator. The team had reduced the backlog from 600 outstanding claims to 58 within two weeks; but a new batch was found on April 8 that they are now sorting through. The goal is to clear out the queue by the end of May.

Member Slusher inquired about MC Innovations' payment turnaround times. Executive Director McCoy confirmed that the upper limit would be 15 days; but real-time tracking should expedite the process. She also noted that the caregiver timesheet system is still handled outside the new platform; but integration is underway concerning that processing, as well.

Executive Director McCoy reiterated that they reviewed not only financials but also SOC 2 testing, HIPAA compliance, security assurances, and conducted due diligence, consulting with OAG legal counsel.

Third-Party Trust Home Administrator:

Executive Director McCoy discussed the 15 trust homes owned by the Program and the email and letter communications sent to the families living in those homes, notifying them of the transition to a new property manager. She noted that the Program has grown beyond the capacity of Chesapeake Wealth Management, and they are in contact with their current financial institution, Truist, to set up custodial arrangements for the financial aspects. She noted that a final review of these agreements is underway, with consultation from the legal team, and they should be finalized by next week. Alex Smith, Claims Manager, has been provided as a resource for families to reach out to for direct support with immediate needs. Executive Director McCoy stated that she will provide an update on the property manager candidates by the next Board meeting, but ensured Chesapeake Wealth Management has agreed to assist for a short period during the transition to ensure continued support for the families.

Executive Director McCoy also addressed two questions raised in the last month during this transition: one regarding a maintenance issue and the other concerning a maintenance and home improvement issue. Both have been approved or resolved, and there are no other outstanding matters to the best of her knowledge.

Closed Session:

Chairman Ratz moved to go into closed session at approximately 12:15 p.m.

In accordance with the provisions of Section §2.2-3711 (A)(1); § 2.2-3711 (A)(7); § 2.2-3711 (A)(8); and §2.2-3711 (A)(29) of the Code of Virginia, he moved that the Board of Directors for the Virginia Birth Related Neurological Injury Compensation Program go into closed meeting for the purpose of:

Discussion and consideration of assignment, appointment, promotion, performance, salary, disciplining, or resignation of an employee or employees- the subject of which is a discussion of the recent resignation of the employees and “Former Finance Employee Review”;

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- the subject of which are 1) contracts with the past and current claims servicing companies, 2) discussion of claims and pending cases against the Program related to birth injuries, 3) the pursuit of monetary claims in favor of the Program, and 4) contracts with prospective accounting firms; and

Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body- the subject of which are contracts with prospective accounting firms.

Member Mike Hoover seconded the Motion. The Motion was voted upon and passed unanimously.

CERTIFICATION

Chair Ratz moved for the adoption of the following resolution by the members of this Boad of Directors:

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, §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 in the closed meeting by the Board.

Member John Gordon seconded the Motion. The members of the Board were polled

individually and each certified the resolution.

Adjournment:

Member Kevin Logan motioned to adjourn the meeting at 1:40 p.m. and it was seconded by Member Slusher. The Motion was voted upon and passed unanimously.