Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting

Minutes for February 10, 2016 - Draft

Attendees:
Dave Barrett - Chair
Rebecca Filla, M. D.
Vicki Harris, J. D.
Vanessa Rakestraw, Ph. D., CRC
Neal Schulwolf, Esq. – Vice Chair
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
Ronald N. Regnery, Senior Assistant Attorney General & Section Chief, Trial Section of the Civil Litigation Division
Drew Mucci, parent of admitted claimant

Call to Order:
Dave Barrett, Chair, called the meeting to order at 10:30 a.m.

Introductions:
Introductions were made by the Board, counsel and staff to attending guests.

Minutes:
Ms. Harris moved to approve the January minutes with revisions recommended by Assistant Attorney General Carla Collins. Dr. Filla seconded the motion and it passed unanimously.

Finance:
Ms. Thomas stated that the Program had $402 million in investments through December of 2015 compared to $396 million in the previous year. There are 151 active claimants in the Program as of December 31st.

Investments:
Mr. Barrett reported that investments were down by 2.8% for the end of January 2016. Mr. Barrett stated that the market continues to be volatile and that the Program's finances are being moved to safer investments providing a diversified portfolio. Mr.

Barrett moved that the financial reports be approved by consensus. The Board unanimously approved the reports.

Public Comment:
None.

Closed Session (Legal/Claimant Issues/Pending Cases/Possible Litigation):
Dr. Filla 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 Mr. Schulwolf and passed unanimously.

Mr. Mucci presented his requests during the closed meeting and then left before the Board began its deliberations concerning his requests.

CERTIFICATION
Dr. Filla 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):

B10-06: Dr. Seeds moved that the Board table the request regarding housing renovations until additional information is provided by the Program's construction consultant concerning the potential cost of medically necessary special equipment. The motion was seconded by Ms. Harris and it passed unanimously.

B-10-06: Dr. Seeds moved that the Board pre-authorize reimbursement requests of up to 55 hours total per week for medically necessary expenses of care provided by the admitted claimant's caregiver to be allocated between both families and that the Board required all timesheets concerning the same period of time to be sent simultaneously to the Program with all reimbursement requests. The motion was seconded by Ms. Harris and it passed unanimously.

B-01-06: Ms. Harris made a motion that the claim for the expense of care be denied. The motion was seconded by Dr. Seeds and it passed unanimously.

Mr. Schulwolf moved that the Board authorize and approve the proposed settlement agreement for pre-petition compensation in the pending litigation matters of B-15-10. Dr. Filla seconded the motion and it passed unanimously.

New Business:

None.

Executive Director's Comments:

Mr. Deebo noted that there are two Board members whose terms expire in June.

Adjournment:

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