

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for February 8, 2011**

Attendees:

Susan J. Lucas, MD, PhD, Chair
Susan Riddick-Grisham, RN, Vice-Chair
David Barrett
Hope F. Cupit, CPA
McLain O'Ferrall
John W. Seeds, MD
Gwen Taylor, Esq., MSW
J. Scott Walters, Esq.

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Claims Manager
Carla Collins, Office of the Attorney General
Mike Melis, Office of the Attorney General

Call to Order:

Susan J. Lucas, MD, Chair, called the February Board meeting to order at 1:00 p.m.

Introductions:

Introductions were made by all parties in attendance including Board Member who stated their name and the type of seat held, Program staff and visitors.

Minutes:

McLain O'Ferrall motioned to accept the January Board minutes as corrected by Carla Collins. David Barrett seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the January 2011 financials. The Program has 116 active claimants. Hope Cupit motioned to approve the financial report. Susan Riddick-Grisham seconded the motion and it passed unanimously.

Gwen Taylor stated the January Board Meeting Minutes didn't reflect Candace Thomas' announcement of the Program's Liability Insurance being acquired by the Program. Gwen Taylor made the motion to amend the January Minutes to reflect the new liability insurance. Dave Barrett seconded the motion and it passed unanimously.

Investment:

Due to the trend of the market, the Investment Committee decided to reallocate some Program investments. The Program has approximately \$273 million in investments as of December 2010.

Lain O’Ferrall stated that the Program investments had an increase of 4.4% for the 4th quarter and an 11.2% rate of return YTD.

Legislature:

Linda Chenoweth, Legislative Affairs Coordinator, stated SB 1176 was dropped. HB 2170, a bill to amend and reenact § 38.2-5009 of the Code of Virginia passed and is now on its way to the Senate. It’s expected to pass there as well. Linda Chenoweth referred to Carla Collins to briefly explain the HB 2170 amendments and reenactments to the Board.

Gwen Taylor reminded the Program the Board needs to be advised in advance of upcoming proposed legislation. Ms. Taylor is requesting management give Board members more notice to legislative meetings in regards to pending legislative in case a Board member wants to be present. Ms. Taylor also requested information pertaining to pending legislative be discussed amongst the Board before any decisions are made on the Board’s behalf. George Deebo noted that very often there is little notice of when legislative events will occur. Carla Collins stated the best way to keep up with what’s being brought before the General Assembly is to contact the Legislative Aide. By doing this, there is still no guarantee of receiving needed information in a timely manner.

The Board decided a subcommittee, consisting of Dr. Susan Lucas, Scott Walters and Gwen Taylor, be contacted as soon as possible when decisions need to be made on the Board’s behalf.

Scott Walters reminded the Board proper public notice, normally three days, must be provided before any board or committee meeting. It also was noted that an individual board member cannot speak for the Board.

Public Comment:

None.

Closed Session (Legal Advice/Case Update):

Scott Walters moved that the meeting convene in accordance with the provisions of Section 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). The motion was seconded by Lain O’Ferrall, and passed unanimously.

Scott Walters 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'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. Board members were polled and all certified the motion.

For the first part of this session, Carla Collins excused herself for the presentation made by Morris and Morris. She returned to the closed session once Morris and Morris had left from the closed session to continue with the case updates.

New Business:

George Deebo, Executive Director, reviewed a letter from Pinnacle Actuarial Resources, Inc., with the Board. Per the letter, the Program has enough money in reserves to cover the current costs of all admitted claimants. However, the Program is still considered actuarially unsound.

The following committees were either confirmed for Board members and/or committee members changed:

- The Investment Committee consists of David Barrett, McLain O'Ferrall, Scott Walters and Chair (currently Susan Lucas, MD).
- The Audit Committee consists of Hope Cupit, Scott Walters and Chair (currently Susan Lucas, MD).

Dr. John Seeds requested the Board be reminded of all of the scheduled Committee meetings.

Executive Director's Report:

George Deebo, Executive Director, announced that Program staff had recently ordered a new conference table, and hopefully it would be in place by the March Board Meeting.

Dave Barrett asked how Board members are to respond if approached or contacted by the media. George Deebo responded that it was up to the Board member on how to respond, or to refer all questions from the Media to the Program Staff.

Adjournment:

A motion to adjourn was made by Susan J. Lucas, MD, PhD, Chair, at 3:30 pm. It was seconded by Hope Cupit, and passed unanimously.