

**Virginia Birth Injury Program  
Board of Director's Meeting  
June 14, 2005**

**Attendees:**

Melina Dee Perdue, Chair  
Bill LeHew, MD, Vice-Chair  
Lynn Chapman  
Edward Mazur  
McLain O'Ferrall  
Jennifer Ogburn  
Ralph Shelman

**Also Present:**

George Deebo, Executive Director  
Candace Thomas, Deputy Director  
Iris Allen, Claims Manager  
Angela Conley, Executive Assistant  
Frank Ferguson, Deputy AG, AG Office  
Bill McKelway, Richmond Times Dispatch  
Jim Rorrer, CapGroup Consultant  
Christie West, Claimant Parent  
Keith Lamb

**Call to Order:**

Melina Dee Perdue, Chair, called the meeting to order at 1:00 p.m.

**Minutes:**

Ed Mazur motioned that the May Board meeting minutes be approved with exception to the section of Continued Business. The Ad Hoc recommendations had been amended with "Final Board Actions" that would replace the items listed in continued business. At this point, the board members did not have the amended document to review. Lynn Chapman seconded the motion. Motion carried.

**Finance:**

Candace Thomas reviewed the Balance Sheet, Profit and Loss, and Profit and Loss Previous Year Comparison.. Ed Mazur stated that Candace and staff had done a good job and finished 2004 audit showed great improvement from previous years.

Ed Mazur noted that some of the accounts should be defined on the Profit & Loss Previous Year Comparison for members in case they were not clear what went into the account as well as a brief explanation for any changes greater than 15% from 2004 to 2005. Board members noted that they liked seeing both summary and detail of the financial statements.

Melina Dee Perdue asked if there was a cutoff time limit for physicians to seek refunds for paid assessments? For example, can a physician that paid in 2003 ask for a refund in 2005? George Deebo and Iris Allen both spoke stating that refunds were normally the outcome of the physician and their management office paying the assessment twice creating a refund. Normally, the management office would reimburse the physician or the overpayment was caught in the current year.

Ed Mazur asked why Payroll Expense was listed twice. George Deebo stated that benefits of employees including payroll are now processed through a Professional Employer Organization .

A motion was made to approve the May financial statements. Motion carried unanimously.

**Finance Committee:**

Ed Mazur stated that Gary Burke has been hired to conduct and coordinate a funding study according to 2005 House Joint Resolution 646. The analysis would look into the Program deficits, causes of the deficits, and Program structure.

Ed Mazur congratulated Candace Thomas on her work on the financials. An earlier meeting with the auditor showed that there were no internal control problems and only minor changes would have to be made to the final statements.

Candace Thomas is currently working on the Management Discussion & Analysis for the 2004 audit. The finance committee has discussed changing the format to separately denote the costs for participants in the program and claimants born but not yet admitted (Incurred but not reported IBNR) Ed Mazur continued that a draft report would be forthcoming.

Ed Mazur made a motion that the Program staff contact appropriate state agencies to explore including Program employees in the State retirement system. Motion passed unanimously.

**Investment Committee:**

Laine O’Ferrall stated that a meeting had been held with VRS and staff. He was unable to make the meeting, however, he thought that it had been a good meeting from comments from staff. The investment committee recommends two motions for board approval.

Motion #1: The Investment Committee, with the assistance of our consultant, Capital Advisory Group, has completed an extensive due diligence effort to evaluate candidates to provide custody and other investment related services for the investment assets of the BIF. The candidates included some of the largest, most experienced providers of these services in the country. The assets are currently held in a brokerage account at Merrill Lynch. The committee recommends for board approval the termination of Merrill Lynch as the investment manager and custodian of the Fund's investment assets and the subsequent hiring of SunTrust Bank as the custodian. This was passed unanimously.

Motion #2: The committee also would like to recommend for board approval the granting of discretionary authority to the Investment Committee to hire and fire investment related service providers such as investment managers and custodians. The committee would be required to report all such activity to the Board in a timely fashion. This motion also passed unanimously.

**Continued Business:**

Ed Mazur to discuss the Ad Hoc amended document at the next board meeting.

George Deebo presented information and proposed policy on the use of Medical Dogs. Upon Board approval, the use of medical dog policy would be sent to all claimant families along with any specific articles relating the use of the medical dogs.

Bill LeHew had received information from Florida that describes their policy for allowing paid parental care in the home. The board members decided that this topic was worthy for the Fund to look into and wanted to dedicate some time at the August board meeting for this topic. The board members also decided that a committee needed to be assembled to discuss the options of parental care for the Fund. Members interested were Ralph Shelman, Jennifer Ogburn and Laine O’Ferrall.

**Public Comment:**

No comments

**Closed Session Regarding Claimant Issues:**

Melina Dee Perdue, Chair, moved that the meeting convene in a closed session to discuss claimant issues pursuant to the exemption at 2.2-3705 (this references 38.2-5002.2). The motion was seconded by Ralph Shelman and unanimously passed.

Melina Dee Perdue made a motion that the Board certifies the closed session, to the best of each member’s knowledge, discussed only public business matters lawfully exempted and only such matters as were identified in the motion that closed the meeting. The motion was seconded and unanimously passed.

**Results of Closed Session:**

Ms. [REDACTED] would like the Board to increase the amount approved for providing a handicapped equipped bedroom and bath for her home. After looking at the different avenues in which Ms. [REDACTED] could pursue, Board members felt that additional information was needed from the builders (home and modular) along with the financial lenders Ms. [REDACTED] has been working with. Frank Ferguson noted to members to be sure to maintain the Program guidelines as they reviewed this information. Ed Mazur motioned to have staff begin the investigation and to report back to the Board immediately upon its findings. Bill LeHew seconded the motion. The motion was passed unanimously.

Mrs. [REDACTED] requests a new mini van for her son, [REDACTED]. Due to safety requirements, Mobility Center of Virginia, no longer will raise roofs on vans. Therefore, the main option for

the Board would be to purchase a new mini van for this family. Ralph Shelman motioned to approve the purchase of a new mini van for the family. Motion passed unanimously.

Mrs. [REDACTED] requests a new mini van for her son, [REDACTED]. Due to safety requirements, Mobility Center of Virginia, no longer will raise roofs on vans. Therefore, the only option for the Board would be to purchase a new mini van for this family. Ralph Shelman motioned to approve the purchase of a new mini van for the family. Motion passed unanimously.

Mr. and Mrs. [REDACTED] request a Chevrolet Tahoe for their son, [REDACTED] who is partially ambulatory, with assistance. The family wants a large vehicle that will assist Brian in his travels, carry the entire family and transport a wheelchair if necessary. Bill LeHew motioned to offer the family a wheelchair accessible mini van, but to allow the normally removed seat to be included if so desired. Lynn Chapman seconded the motion. The motion was unanimously accepted.

Mr. and Mrs. [REDACTED] request a vehicle for their daughter, [REDACTED] is not in a wheelchair but does need assistance walking and being placed in a vehicle. Bill LeHew motioned to deny the request until the Program received a letter of medical necessity. Motion passed unanimously.

Ms. [REDACTED] guardian of [REDACTED] requests assistance in the repair of the current elevator system in their trust home or to add an additional downstairs bedroom and bathroom for [REDACTED]. Ralph Shelman motioned to install a new and larger elevator within the existing elevator shaft in the trust home for the Merchant family. Lynn Chapman seconded the motion.

#### **New Business:**

Frank Ferguson reviewed how the fees for the services of the Office of the Attorney General for 2005 were computed. The AG offices hours were based on the previous year estimate of 2000 hours. The MOA was written as a three-year agreement, however the board requested that it be modified to a one-year agreement. Ed Mazur motioned to accept the one-year rate of the AG Office as stated by Frank Ferguson. Laine O'Ferrall seconded the motion.

#### **Closed Session Regarding Legal Advice:**

Melina Dee Perdue, moved that the meeting convene in a closed session to discuss legal issues pursuant to the exemption at 2.2-3705 (this references 38.2-5002.2). The motion was seconded and unanimously passed.

Melina Dee Perdue, made a motion that the Board certify the closed session, to the best of each member's knowledge, discussed only public business matters lawfully exempted and only such matters as were identified in the motion that closed the meeting. The motion was seconded and unanimously passed.

#### **Director's Report:**

The July board meeting scheduled for July 12<sup>th</sup>, 2005, will meet from 10:00 am until 3:00 pm with a break for lunch tentatively at the Marriott Hotel at Short Pump (Richmond West Marriott).

**Adjournment:**

A motion to adjourn was made by Melina Dee Perdue, Chair, seconded and unanimously agreed to at 4:30 p.m.