

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for September 13, 2011**

Attendees:

Susan J. Lucas, MD, PhD, Chair
David Barrett
Hope Cupit, CPA
Francoise Mullen
McLain O'Ferrall
Neal Schulwolf, Esq.
A. Lee Talley, Jr.
J. Scott Walters, Esq.

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Claims Manager
Linda Chenoweth, Legislative Affairs Coordinator
Carla Collins, Assistant Attorney General III, Office of the Attorney General

Call to Order:

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

Introductions:

All attendees, including Board Members and Program staff, introduced themselves. The Board Members each described the type of seat for which he or she was appointed to serve.

Minutes:

Ms. Cupit motioned to accept the July Board minutes. Mr. Barrett seconded the motion and it passed unanimously.

Finance:

Ms. Thomas reviewed the August 2011 financials. Two new claimants were admitted into the Program during July and August. There are currently 122 active claimants. The Program has \$268 million in investments. Mr. O'Ferrall motioned to accept the August financial report.

Mr. Talley seconded the motion and it passed unanimously.

Ms. Cupit suggested the Board commend Mr. Deebo and Ms. Thomas for their hard and thorough work for the Audit Committee. The Board thanked Mr. Deebo and Ms. Thomas for doing a wonderful job.

Investment:

Mr. O'Ferrall stated the Program's investments had a decreased return of 3.38% MTD and an increased return of 0.71% YTD for the month. Mr. O'Ferrall informed the Board the Investment Committee met earlier today and the minutes will be sent to each Board Member.

Legislature:

None

Public Comment:

Mr. Deebo informed the Board a claimant's attorney who wishes to address the Board could not attend. Therefore, that agenda item will be moved to next month's agenda.

Closed Session (Case Update/Old Business):

Dr. Lucas moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) 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 pending litigation and case updates, including the 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 J. Scott Walters, and passed unanimously.

Carla Collins, Assistant Attorney General, excused herself for the Morris & Morris update given by George Deebo, Executive Director, during the second part of this session. Ms. Collins returned to the room after Mr. Deebo concluded his update.

Upon the conclusion of the Closed Session, Dr. Lucas 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.

The Board members were polled and all certified the motion.

Results of Closed Session (Old Business):

Dr. Lucas moved the Board to authorize the extension of cash controls to continue litigation. The Motion was seconded by Hope Cupit, and passed unanimously.

New Business:

None

Executive Director's Report:

Mr. Deebo, Executive Director, requested the Board examine 24-hour care for claimants. Claimants and parents/guardians are getting older and this type of care is becoming more regularly requested by families. The Program currently has 8 to 10 claimants who receive 24-

hour care. Ms. Cupit inquired about the possibility of claimants being admitted into assisted living facilities. Mr. Deebo said admission is possible but no one has requested it. Placing claimants in such facilities may result in increased costs.

Adjournment:

A motion to adjourn was made by Mr. Talley, at 2:30 p.m. The motion was seconded by Mr. Barrett and passed unanimously.