

**Virginia Birth-Related Neurological Injury Compensation Program  
Board of Director's Meeting  
Minutes for October 11, 2011**

**Attendees:**

J. Scott Walters, Esq. Acting-Chair  
David Barrett  
Hope Cupit, CPA  
Francoise Mullen  
McLain O'Ferrall  
Neal Schulwolf, Esq.  
John Seeds, MD  
A. Lee Talley, Jr.

**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  
Abram J. Pafford, Esq., Pafford Lawrence & Ross PLLC  
Jeffrey Still, Parent

**Call to Order:**

J. Scott Walters, Acting-Chair, called the October Board meeting to order at 1:00 p.m.

**Introductions:**

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

**Minutes:**

Mr. Walters moved for the adoption of the September Board minutes. The motion carried.

**Finance:**

Ms. Thomas reviewed the September 2011 financials. Three new claimants were admitted into the Program during September. There are currently 125 active claimants. The Audit Committee meeting will be held on November 8, 2011 at 11:00 a.m., followed by the Investment Committee meeting at 11:30 a.m. Ms. Cupit made the motion to approve the financial report. Dr. Seeds seconded the motion and it passed unanimously.

Mr. Deebo announced the 2012 Assessment letters will be mailed to physicians and hospitals by the end of the month. Second and third mailings for 2011 have all ready been mailed.

**Investment:**

Mr. O’Ferrall stated the Program’s investments had a decreased return of 4.97% MTD and a decreased return of 4.19% YTD for the month. Mr. O’Ferrall informed the Board the Investment Committee will review the Program’s portfolio at the Committee meeting held in November.

**Legislature:**

Ms. Chenoweth informed the Board 14 of the 40 Senate seats are uncontested in the upcoming election. The Program is not seeking any legislation this year. The Board will be informed of any proposed legislation which may affect the Program.

**Public Comment:**

Mr. Pafford, attorney for Mr. Still and Cailey Still, presented documentation to the Board regarding the Sleep Safe Bed for Cailey. Mr. Pafford discussed the benefits of Cailey receiving the bed. Mr. Pafford and Mr. Still thanked the Board for their time and will await the Board’s decision.

***Closed Session (Claimant Issues):***

Mr. Barrett 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 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 Mr. Talley, and passed unanimously.

Upon the conclusion of the Closed Session, Mr. Barrett 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 (Claimant Issues):**

Mr. O’Ferrall made the motion the Board reimburse or purchase a full-sized Sleep Safe Bed for [REDACTED]. The motion was seconded by Mr. Barrett, and passed unanimously.

Mr. Talley made the motion to deny [REDACTED] request for the hands-free SYNC system and back-up camera installation on the Program provided van. The motion was seconded by Mr. Barrett, and passed unanimously.

***Closed Session (Case Updates):***

Ms. Cupit 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: 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 Mr. O’Ferrall, and passed unanimously.

Ms. Cupit 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.

**New Business:**

Mr. Deebo, Executive Director, requested the Board review and consider 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.

**Executive Director's Report:**

Mr. Deebo, Executive Director, informed the Board New York has established the Neurologically Impaired Infant Fund. It is similar to the Virginia program in that it provides for similar types of injury however is funding through state appropriations.

**Adjournment:**

Meeting was adjourned by Mr. Walters, Acting Chair, at 3:00 p.m.