

Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
DRAFT - Minutes for October 13, 2009 (revised 11/3/09)

Attendees:

Susan Lucas, MD, Ph.D., Chair
Lain O'Ferrall, Vice-Chair
Robert "Bob" Boyle, MD
Jennifer Ogburn
Susan Riddick-Grisham, RN, LCP
Dalal Salomon
Gwen Taylor, Esq, MSW

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Carla Collins, Assistant Attorney General, Office of the Attorney General

Scott Early, Perimeter Security Services (sat outside conference room)
Bill McKelway, Richmond Times Dispatch
Ann Jones

Call to Order:

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

Minutes:

Sue Lucas motioned to accept the July Board minutes. Laine O'Ferrall seconded the motion and it passed unanimously.

Finance:

Sue Lucas motioned to accept the July Financial reports. Bob Boyle seconded the motion and it passed unanimously.

Investment:

Lain O'Ferrall commented that the Program's reserves have rebounded to \$214 million.

Public Comment:

Bill McKelway asked several questions related to the recent embezzlement case. Board members and staff responded.

Claimant Issue (Open Session)

Anne Jones, attorney for Ms. Nelson, discussed the use of conductive education for her client. A discussion ensued regarding the use of Conductive Education by claimants.

Closed Session

Susan Lucas, MD, 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 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.

Susan Lucas, MD, 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.

Results of Closed Session (Claimant Issues):

Sue Lucas moved that regarding ██████████, per statute 38.2-5009 that he cannot be reimbursed for caregivers that are eligible to be paid by Medicaid. The motion was seconded by Laine O’Farrell and passed unanimously.

Sue Lucas moved that regarding the request for ██████████, the Program delete the 180-day requirement for paying expenses allowed in the Medical Service Dog Guidelines Statement. The motion was seconded by Gwen Taylor and passed unanimously.

Sue Lucas moved that regarding the request from ██████████, if an appropriate physician says care can be provided by her as an LPN, then the Program will allow up to 40 hours per week by her as an LPN at the prevailing rate for her area at the Program’s normally allowed rate.

Old Business:

Susan Grisham presented a report regarding the status of Conductive Education. Her written report noted that “Literature does not provide conclusive evidence either in support or against CE as an intervention strategy. The limited number of studies and their weak quality makes it impossible for the literature alone to guide the decision-making regarding CE.

Additionally Ms. Grisham made several inquiries with experts and to the Inter-American Conductive Education Association, Inc., however at this point has received limited responses.

She also noted there is not a recognized system of accreditation or certification for CE practitioners.

Following additional discussion, Sue Lucas moved and Dalal Saloman seconded, to move Conductive Education from experimental therapy to a transitional status and allow reimbursement up to \$18,000 per year with the requirement of an annual medical assessment proving efficacy and/or maintenance of achievement for the claimant. Additionally the Conductive Education services must be provided in the claimant's state of residence. The motion passed unanimously.

The change will require a change of Program Guidelines.

New Business:

After discussion, Executive Director George Deebo agreed to prepare a Plan of Action by Monday October 19, 2009 which would then be reviewed by two Board members, Laine O' Ferrall and Gwen Taylor and ultimately posted on the Board's website. In preparing the Plan it was agreed that the Executive Director will consider all of the following:

1. Appointing a Forensic Accountant to investigate embezzlement losses
2. Response to the 2009 Recommendations of the Independent Auditor
3. Response to the Families Recent Communications About the Embezzlement
4. The Four Motions Prepared by Gwen Taylor and Included in the Meeting Agenda (More Communication with Families, Written Accounting of Losses, Written Accounting of Benefits to Families, and Written Expanation and Recommendations from Independent Auditor Re Embezzlement)
5. Institution of an outside ID security program to Protect Families from Identity Theft
6. Additional Funds as Necessary to Compensate Families for Losses
7. A Survey of the Families on Various Timely Issues
8. Reconvening the Parents' Advisory Group
9. Personnel/Contractor Issues

Closed Session Regarding (Legal, Case Update and Personnel):

Board members were polled and all certified the motion.

Adjournment:

A motion to adjourn was made by Susan Lucas, Chair, at 4:20 pm. It passed unanimously.