

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for October 14, 2008**

Attendees:

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

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Executive Assistant
Shirley Ricks, Legislative Affairs Coordinator
Carla Collins, Assistant Attorney General, Office of the Attorney General
Sturgis Kidder
Bill McKelway, Richmond Times Dispatch

Call to Order:

Susan Lucas, Chair, called the October Board meeting to order at 1:00 pm. Introductions were made for those present for Shirley Ricks and Gwen Taylor.

Minutes:

Lain O'Ferrall motioned to accept the September Board minutes. Bob Boyle seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the financial highlights that included the Balance Sheet and the Profit and Loss Report. Candace Thomas stated that there was a correction in the general notes regarding the date. Program has \$187 million in investments and there are currently 111 active children in the program. Candace Thomas announced that she would be meeting with the auditors on October 16th, 2008. Lain O'Ferrall motioned to accept the September Financial reports. Gwen Taylor seconded the motion and it passed unanimously.

Investment:

Lain O'Ferrall stated that the Program investments were starting to rise but the market was still low. YTD was down by 13%. He noted that was actually a good showing considering the overall market and it's due to a strong and diverse investment policy. Lain O'Ferrall also stated that bonds were down as well which is unusual when equities are also down.

Public Comment:

Bill McKelway, Richmond Times Dispatch, asked Lain O’Ferrall if the Program had not diversified the funds, would the Program still be in the position it is in with the market? Lain O’Ferrall commented that if the Program had stayed with its investments prior to the newer policy it might have a loss of 35% or more instead of the current 13%.

Sturgis Kidder thanked the Program for the timeliness of processing his request for reimbursement. Mr. Kidder has received the seat and van for his son, Andrew. Andrew is very happy with the van.

Susan Lucas announced that due to the Program offices being closed on the next Board meeting date, she asked if the Board could meet a different day. The November Board meeting will be held on Wednesday, November 12th, 2008. It was unanimously decided.

Closed Session Regarding (Claimant, Case Updates and Guidelines Revision)

Jennifer Ogburn 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 goes 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, case updates and potential revisions to the Program’s Guidelines. The motion was seconded by Bob Boyle and passed unanimously.

Jennifer Ogburn 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):

Susan Lucas motioned to deny [REDACTED] request for previous years’ (2005-2006) reimbursement for out of state physical therapy expenses because expenses do not meet Program guidelines. Lain O’Ferrall seconded the motion and it passed unanimously.

Results of Closed Session (Guidelines):

Susan Lucas, chair, motioned to adopt the revised guidelines with the following changes:

- delete “or combination of” on page 8 at relatives to relative and guardian to guardian
- delete NOTE bottom page 9
- Attorney’s Fees, delete “but does not require”
- add “written” in front of notification and or denial

Lain O’Ferrall seconded the motion and it passed unanimously.

Adjournment:

A motion to adjourn was made by Susan Lucas, Chair, at 3:15pm. It passed unanimously.