

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for November 8, 2011**

Attendees:

Susan Lucas, MD, PhD, Chair
David Barrett
Hope Cupit, CPA
Francoise Mullen
McLain O'Ferrall
Neal Schulwolf, Esq.
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

Call to Order:

Susan Lucas, MD, PhD, Chair, called the November Board meeting to order at 1:00 p.m.

Minutes:

Mr. Barrett motioned to accept the October Board minutes. Mr. O'Ferrall seconded the motion and it passed unanimously.

Dr. Lucas thanked Mr. Walters, in his absence, for acting as Chair during the October Board meeting.

Finance:

Ms. Thomas reviewed the October 2011 financials. One new claimant was admitted into the Program during October. There are currently 126 active claimants. The Program has had 13 admissions year-to-date. Mr. O'Ferrall inquired about the claimants' geographical locations. Ms. Thomas stated the admitted claimants' current locations are statewide as well as out-of-state. Claimants must be born in a participating hospital or delivered by a participating physician in Virginia to be admitted into the Program. Ms. Cupit made the motion to approve the financial report. Mr. O'Ferrall seconded the motion and it passed unanimously.

Investment:

Mr. O'Ferrall stated the Investment Committee met earlier today and is pleased to report the Program is ahead of targeted benchmarks. The Committee will review any potential fund

manager changes in February. The Program's investments had an increased return of 1.6% YTD for the month.

Legislature:

Ms. Chenoweth informed the Board that only 26 of the 40 Virginia Senate seats will be contested in today's election. The Board was reminded the Program is not seeking any legislation this year. However, if there is any proposed legislation that may affect the Program, the Board will be informed. Mr. Deebo stated the Program is generally not notified prior to the introduction of any legislation that will be considered by the General Assembly; but the pre-filing period ends in December.

Public Comment:

None

Closed Session (Claimant Issues/Case Updates/Old Business):

Mr. O'Ferrall 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) and legal counsel regarding real estate matters. The motion was seconded by Dr. Lucas, and passed unanimously.

For the final part of this session, Carla Collins, Assistant Attorney General, excused herself for the Old Business in regards to the legal update given by George Deebo, Executive Director. Ms. Collins returned to the room after Mr. Deebo concluded the update.

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):

Dr. Lucas, based upon [REDACTED] medical needs, made the motion the Board approve Mr. and Mrs. McGrady's request for a van equipped with a TAS (Turning Automotive Seating) "Turny" seat. The motion was seconded by Mr. Talley, and passed unanimously.

New Business:

Dr. Lucas requested the Board members submit nominations for officers within the next two weeks to Mr. O'Ferrall via email.

Mr. Deebo reviewed the actuarial report completed by Pinnacle Actuarial Resources. This report is based upon a conservative methodology, but the conclusions rendered are not as conservative as those contained in the reports completed by the former actuary.

Executive Director's Report:

Mr. Deebo informed the Board that more research is being conducted concerning 24-hour care for claimants. The Program currently has two claimants housed in 24-hour care facilities.

Dr. Lucas recommended the Board request Ms. Kimberly Nelson, an admitted claimant's parent, research the possibilities for guardianship/care available for an admitted claimant upon the demise of his/her parent(s) and the procedures/resources which would be necessary to implement each alternative.

Adjournment:

A motion to adjourn was made by Mr. McLain O'Ferrall, at 2:20 p.m. The motion was seconded by Mr. David Barrett and passed unanimously.