

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
DRAFT - Minutes for November 11, 2009**

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
Scott Walters, Esq.

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

Call to Order:

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

Minutes:

Lain O'Ferrall motioned to accept the October Board minutes. Gwen Taylor seconded the motion and it passed unanimously.

Finance:

Scott Walters motioned to accept the October Financial reports. Lain O'Ferrall seconded the motion and it passed unanimously.

Investment:

Lain O'Ferrall commented that the Investment Committee had met earlier in the morning with Jim Rorrer with Cap Group. The investment committee voted to sell \$6 million from Vanguard Total Bond Index Fund and invest \$5 million in Pimco Total Return Fund and \$1 million in the Loomis Sayles Global Fund. Lain O'Ferrall stated that for the 3rd quarter the Program's investments were up by 11% and overall up by 18.1 % for 2009.

FOIA Review

Carla Collins, Assistant Attorney General with the Office of the Attorney General gave the Board members a quick review of the practices of the Freedom of Information Act.

Public Comment:

Bill McKelway inquired into the funeral benefit provided by the Program and asked if staff attended the funerals. George Deebo responded that the Program does assist with burial expenses, and that flowers are sent but staff members generally do not attend.

Bill McKelway asked if families who were utilizing the wage benefit were losing their Medicaid benefits and how many. George Deebo stated that the Wage Benefit was causing loss of Medicaid benefits for some families, however the Program is looking into other avenues to prevent loss for future families and had provided all impacted families with specific information on how to set up a trust that would eliminate the problem. About four families have been impacted.

Closed Session

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 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 Sue Lucas, MD, 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 Issues):

(Regarding request from ██████████) A motion was made that the Board agree to contribute \$200 toward the cost of a monitoring system. Motion was seconded by Scott Walters, and passed unanimously.

(Regarding ██████████) A motion was made that the Board agrees to the order as written. Motion was seconded by Lain O'Ferrall, and passed unanimously.

(Regarding ██████████) A motion was made to finalize the proposed agreement and authorize counsel to spend the necessary funds to affect the agreement. Motion seconded by Susan Riddick-Grisham, and passed unanimously.

Old Business:

The Board has agreed to revise the Conductive Education benefit under the current guidelines. The revised guidelines will be posted in The Register. Then, there will be a 60 day review/comment period for the public. After the 60 days, the Board will need to vote to accept the revised guidelines regarding the Conductive Education benefit.

George Deebo informed the Board that, Steve Walls and Associates, a forensic auditor, has been hired by Program to review records in connection with the current embezzlement case.

Gwen Taylor recapped previously discussed items from the October Board meeting in regards to the recent embezzlement case. It was also discussed to search for an attorney with a financial background to review the recent audit for legal concerns regarding the recent embezzlement case. George Deebo and Gwen Taylor Taylor will be researching and reviewing credentials to find an attorney by the next Board meeting.

New Business:

The Annual Actuarial Report provided by Oliver Wyman Actuarial Consulting, Inc. were handled out to the Board members. George Deebo asked that the Board members review the report and bring any questions to the December Board meeting for further discussion.

Board Elections: Sue Lucas' term as Board Chair will expire on December 31st, 2009, and has decided to step down. Nominations for Board Chair need to be emailed to Sue Lucas for a vote at the December Board meeting.

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

Jennifer Ogburn moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) and 2.2-3711 (A)(1) 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 a personnel matter pursuant to Virginia Code § 2.2-3711 (A)(1). The motion was seconded by Sue Lucas, MD, 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;

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Adjournment:

A motion to adjourn was made by Susan Lucas, Chair, at 3:40 pm. It passed unanimously.