

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for January 12, 2010**

Attendees:

Robert "Bob" Boyle, MD, Chair
Gwen Taylor, Esq., MSW, Vice-Chair
Lain O'Ferrall
Susan Riddick-Grisham, RN, LCP
Scott Walters, Esq.

Also Present:

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

Bill McKelway, Richmond Times Dispatch

Call to Order:

Bob Boyle, MD, Chair, called the January Board meeting to order at 1:00 pm.

Minutes:

Minor corrections recommended by Carla Collins and Gwen Taylor, Vice-Chair. Lain O'Ferrall motioned to accept the recommended changes and approve the December Board minutes. Gwen Taylor, Vice-Chair, seconded the motion and it passed unanimously.

Finance:

Candace Thomas reviewed the financials reports. Program currently has \$235 million in investments compared with \$186 million last year (January 2009). Gwen Taylor, Vice-Chair, motioned to accept the December Financial reports. Susan Grisham seconded the motion and it passed unanimously.

George Deebo shared a few highlights of 2009 with the Board that consisted of highest physician participation (648), highest level of hospital participation (38), highest total annual income (\$30.36 million), highest participating physician and hospital income, and highest level of financial reserves (\$235 million).

Investment:

Lain O'Ferrall stated that for the YTD for 2009 investments has a gain of 21%. Investments for the first quarter are up by 3.3%. Lain O'Ferrall states revenue has increased steadily over the past five years.

Public Comment:

Bill McKelway inquired about the final amount of embezzlement case. George Deebo stated that the final report had not been completed, but that the amounts were about the same.

Bill McKelway inquired about input from the Board on current willful neglect cases that are pending in circuit court.

Bill McKelway also questioned whether or not the Board thought the level of injury would be considered in a willful neglect case. George Deebo responded that it was an open question.

Bill McKelway inquired about payer of last resort. Is there a clear line between Medicaid and the Program as being payer of last resort? George Deebo stated that the Program has been payer of last resort and there have been few problems. Generally, if a claim is denied by Medicaid, the Program does pay.

Susan Grisham asked if any children were on Medicare. George Deebo stated that he was not aware of any.

Closed Session (Claimant Issue)

Susan Grisham 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: 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 Scott Walters and passed unanimously.

Susan Grisham 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):

Scott Walters made a motion to deny request of ██████████ for reversal of prior decision of van warranties (December). Motion was seconded by Susan Grisham, and passed unanimously.

Gwen Taylor, Vice Chair, made a motion to deny additional payment over the allowable amount for experiment therapy (ABT) for ██████████. Motion was seconded by Susan Grisham, and passed unanimously.

Closed Session Regarding (Case Update):

Susan Grisham 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 pursuant to Virginia Code § 2.2-3711 (A)(1). The motion was seconded by Bob Boyle, MD, Chair, and passed unanimously.

Susan Grisham 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.

Executive Director's Report:

George Deebo shared with the Board that a piece of legislation would be introduced that may or may not have an impact on the Program. HB87 proposes a similar program as the Birth Injury Program; however, it excludes birth injury cases.

George Deebo stated that interviews were being conducted this week with attorneys regarding possible civil settlement in connect with the embezzlement case. After the interview committee has selected a firm, the recommendation will be brought back to the Board for final approval.

George Deebo informed the Board that it may be necessary to reschedule the February Board meeting due to the impending embezzlement case scheduled for trial February 8th-10th. After a brief discussion, Board members selected to meet on Friday, February 19th in lieu of Tuesday, February 9th if needed.

The impending trial will may also impact the next scheduled Investment Committee meeting which Candace Thomas suggested could be moved to the March Board Meeting. Candace Thomas will notify the committee members once new date has been confirmed.

George Deebo informed the Board that there are now two positions available on the Board. We will need someone with a CPA background and investment experience.

Adjournment:

A motion to adjourn was made by Bob Boyle, MD, Chair, at 3:10 pm. It passed unanimously.