

**Virginia Birth-Related Neurological Injury Compensation Program  
Board of Director's Meeting  
Minutes for January 13, 2009**

**Attendees:**

Susan Lucas, MD, Ph.D., Chair  
Robert Boyle, MD  
Dalal Salomon  
Ralph Shelman  
Gwen Taylor, Esq., MSW  
Scott Walters

**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

**Call to Order:**

Susan Lucas, Chair, called the January Board meeting to order at 1:00 pm. George Deebo introduced Scott Walters, new Board member, to the Board, and general introductions were made.

**Minutes:**

Ralph Shelman motioned to accept the November 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. Program has \$186 million in investments due to transfer of new assessment revenue from checking account into Trust account and subsequently invested into various funds. There are currently 111 active children in the program. Dalal Salomon motioned to accept the December Financial reports. Gwen Taylor seconded the motion and it passed unanimously.

**Investment:**

Dalal Salomon and Susan Lucas reported to the Board results of the Investment Committee meeting that occurred earlier in the morning. The program investors are maintaining all possible controls to prevent any fraud issues. The investment committee decided to remove Alliance Bernstein as one of the many investment managers due to underperformance, senior management turnover and change in their investment strategies. Replacing them will be Boston Partners.

**Public Comment:**

None.

**Claimant Issues (Open Session):**

George Deebo informed the Board that the claimant issue on the agenda will be tabled until the February Board meeting because the family did not get all the necessary information to Program staff.

Sturgis Kidder presented his concerns on housing. Mr. Kidder stated that he had two construction bids that were over the allowable amount for the housing benefit, however, he has made attempts to discuss the bids with the Program's construction manager, Mr. Singh, but has not heard back from him yet. Mr. Kidder wanted to know the status of his request for reimbursement that was provided to the Program in early December. Mr. Kidder also stated that he is working with delegates on bills for the General Assembly for assistance.

George Deebo responded that Mr. Kidder's request had been received in early December, however, due to the multiple requests within the reimbursement, as well as holidays, the length of time for review has been quite normal. However, Mr. Deebo noted a response has already been drafted and given to legal for review.

Gwen Taylor commented that she did not think it was a good idea for issues to be going through legislation rather than being handled by the Program and maybe additional procedures or processes were needed.

George Deebo responded there is a legislatively prescribed process for reviewing requests. Following review and decisions from staff families can take their concerns before the Board, then appeal to the Workers' Compensation Commission (WCC) if they desire to. Following WCC decisions families may appeal to the Virginia Court of Appeals.

Mr. Kidder stated that he wants a timeline for processing requests.

Scott Walters suggested that Program staff could review current process for requests to determine if procedural changes are needed.

**New Business:**

Board Elections:

- Dalal Salomon nominated Susan Lucas to the position of Chair, seconded by Gwen Taylor and it passed unanimously.
- Dalal Salomon nominated Lain O'Ferrall to the position of Vice-Chair, seconded by Gwen Taylor and it passed unanimously.

Susan Lucas brought it to the Board's attention that after reviewing the annual calendar it looked like Board meetings for the months of September, October, and November occurred either a day before or a day after a holiday. Dr. Lucas asked if anyone wanted to possibly change the Board meeting dates. Board members did not want to change any dates at this time.

**Director's Report:**

George Deebo noted that the Program guidelines had been translated into Spanish. Copies were available for their review. George Deebo will have them reviewed by a third party to make sure they are translated adequately.

George Deebo informed the Board that the Participant Handbook had been revised. Mr. Deebo was having the handbooks reformatted for families to find forms more easily.

With recent review of healthcare premiums for Program staff, Mr. Deebo informed Board that this year's increase across the board was from 20-60% and he would be looking into other health insurers for better rates.

George Deebo informed Board that staff would be doing a telephone conference call with Kenney Shipley, Director, on Friday, January 16, 2009.

In this month's packet there is a letter from Pinnacle Actuary Services briefly reviewing the state's annual actuarial report on the Program. The letter also suggests areas of the report to monitor.

**Other:**

Shirley Ricks, Legislative Affairs Coordinator, shared with the Board that the General Assembly's session starts on Wednesday, January 14, 2009, and she will be there meeting with various legislators. As of right now, there are no specific bills that will impact the Program.

**Closed Session Regarding (Case Updates)**

Susan Lucas 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 and case updates to the Program's Guidelines. The motion was seconded by Ralph Shelman and passed unanimously.

Susan Lucas 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.

**Adjournment:**

A motion to adjourn was made by Susan Lucas, Chair, at 1:57 pm. It passed unanimously.