

**Virginia Birth-Related Neurological Injury Compensation Program  
Board of Director's Meeting  
Minutes for February 12, 2008**

**\*Corrected\***

**Attendees:**

Susan Lucas, MD, Ph.D., Chair  
Laine O'Ferrall, Vice-Chair  
Robert Boyle, MD  
Lynn Chapman  
Jennifer Ogburn

**Also Present:**

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

**Call to Order:**

Susan Lucas, Chair, called the February Board meeting to order at 1:05pm.

**Minutes:**

Laine O'Ferrall motioned to accept the January Board minutes. Susan Lucas 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. Lynn Chapman inquired about negative Net Ordinary Income on the Profit and Loss Report. Candace Thomas stated that there is deferred income that will be transferred. Susan Lucas inquired about consultant fees on the Profit and Loss Report. Candace Thomas stated that it was for the investment consultants, CapGroup. Also, claimant attorney fees were found under Legal Expenses (9007) and medical expert fees (review on our behalf) were found in Medical Review (9008). Lynn Chapman motioned to accept the January financial statements. Laine O'Ferrall seconded the motion and it passed unanimously.

**Investment:**

Laine O'Ferrall opened with information to Board members regarding a free service offered by CapGroup to audit the Program's investment policies to certify that the Program is in compliance with the standards of the industry. If compliance is met the Program would receive the Global Fiduciary Standard of Excellence certificate. Board members would be required to sign a letter acknowledging that they are fiduciaries for the Program. There are 26 standards. Laine O'Ferrall stated that it was a good idea. George Deebo stated that he agreed. There was no negative impact of allowing CapGroup to do the audit.

Lain O'Ferrall motioned to add Susan Lucas as a member of the Investment Committee. Bob Boyle seconded the motion and it passed unanimously.

Lain O'Ferrall continued with his monthly Investment Report. The Program investments had an overall increase of 9.8% for 2007. The indices used for comparison had an overall increase of 7.9% for 2007. However, overall investments for fourth quarter only showed a .5% increase in investments. Bonds were up while stocks had gone down.

Lain O'Ferrall noted an internal funds change under the Bernstein managers.

**Legislative Update:**

George Deebo reported that the General Assembly session was underway. Bills that had been introduced have had the following results thus far:

- Medicaid 120 plan dropped
- Proposal on table for an increase to insurance premiums by 1/3 of current rate
- Use of Florida methodology
- Continue to increase hospital and doctor fees
- Allow payment to parents for care under guidelines to be developed by the Program.  
Add 2 additional members to the Board
  - Lawyer with liability experience
  - Person at large (who has experience with disabled children)

Lain O'Ferrall commented that the person at large could be recommended to the Governor's office if anyone knew of a candidate that might be interested.

George Deebo reviewed two bills. SR211 increases fees, adds 2 members to the Board, and paying of parents. SR212 specifically deals with claims under Chapter 919 for confronting and cross-examining witnesses.

Robert Boyle commented that he had been made aware that there were some misconceptions regarding who was representing the Board and Board views during the legislative proceedings. Apparently, from reports, at times it was unclear if someone was representing the Board or their personal concerns. He also suggested that Board members should be careful about any perceptions that the Board and/or Program was endorsing legislation presented by parties outside the Program.

**Public Comment:**

None.

**Closed Session Regarding (Legal):**

Lynn Chapman, moved that the meeting convene in accordance with the provisions of Section 2.2-3711 (A)(7) of the Code of Virginia that the Board goes into closed meeting for the purpose of discussing claimant issues and 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 probable litigation. Susan Lucas seconded the motion and it passed unanimously.

Lynn Chapman 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:**

Lynn Chapman motioned that the request for the pinball machine be denied because the use of the machine by the child is not medically necessary. Bob Boyle seconded the motion and it passed unanimously.

**Director's Report:**

George Deebo informed the Board that the lease for the Program's new office space had been signed and that staff would be moving in late March or early April.

George Deebo stated that in regards to the legislation process, he will discuss any questions or statements that Board members have to clarify the process.

**Old Business:**

Lynn Chapman will be emailing members of the Policy and Guidelines committee to discuss possible revisions and to set up a date for its next meeting. Current committee members are Lynn Chapman, Jennifer Ogburn, and Ralph Shelman.

**New Business:**

George Deebo discussed with the Board (also in memo) that there was a need to increase the staff health benefit stipend to meet recent increases in health insurance costs. The stipend increase would move from 23 percent to 27 percent of base salary. This change would bring the level back up to the equivalent of what the Commonwealth of Virginia compensates employees for health insurance and disability coverage.

Bob Boyle motioned for the Program to increase the benefits stipend provided to Program employees from 23 percent to 27 percent of base salary and in the future allow the Executive Director to annually modify the percentage rate to track that of the Commonwealth with notification provided to the Board of Directors. Lynn Chapman seconded the motion and it passed unanimously.

**Adjournment:**

A motion to adjourn was made by Susan Lucas, Chair. The motion was seconded and unanimously agreed to at 2:55 p.m.