

**Virginia Birth-Related Neurological Injury Compensation Program  
Board of Director's Meeting  
Minutes for March 13, 2007**

**\*\*AMENDED\*\***

**Attendees:**

Ralph Shelman, Chair  
Melina Dee Perdue, RN, MBA, CNA, Vice-Chair  
Lynn Chapman  
Susan Lucas, MD, Ph.D.  
Laine O'Ferrall

**Also Present:**

George Deebo, Executive Director  
Candace Thomas, Deputy Director  
Angela Conley, Executive Assistant  
Carla Collins, Assistant Attorney General, Office of the Attorney General  
Bill McKelway, Richmond Times Dispatch  
Sturgis Kidder

**Call to Order:**

Ralph Shelman, Chairperson, called the meeting to order at 1:05 p.m.

**Minutes:**

Susan Lucas, MD, motioned to accept the February Board minutes. Melina Dee Perdue seconded the motion and the motion passed unanimously.

**Finance:**

Candace Thomas reviewed the financial highlights that included Balance Sheet, Profit and Loss Report for February.

Susan Lucas, MD, asked what was included in the Professional Services account. Candace Thomas stated that account is for consultants (Cap Group) and lobbyist (Morris & Morris). Dr. Lucas also asked where costs for medical reviews and for Jock Haight, Construction Consultant, were recorded. Candace Thomas responded that the medical reviews were recorded under a separate account for medical expert reviews. Mr. Haight expenses are recorded until construction management; however, no invoices have been received in 2007 as of yet.

Dr. Lucas inquired about how the Attorney General's Office was paid. Candace Thomas stated that the Attorney General Office is set up on an automatic schedule to be paid each quarter.

Laine O'Ferrall motioned to accept the February financial statements. Susan Lucas, MD, seconded the motion and the motion passed unanimously.

**Investment:**

Laine O’Ferrall asked George Deebo to give a summary of the last investment committee meeting held on February 22<sup>nd</sup>, 2007, since he was not in attendance. During the investment committee meeting, it was discussed to continue to post the summary of the investment report on the Program’s website. Overall, the market was stable. The committee will be looking to make some possible changes in some of the investment accounts in future meetings.

**Legislative Update:**

George Deebo mentioned that the Stakeholders meeting were in the process of being scheduled with tentative dates in April and May. As soon as the dates were finalized, he would contact the Board with the meeting information.

**Public Comment:**

Sturgis Kidder, father of Andrew Kidder, was present and distributed to Board members copies of his attorney’s brief filed with the Workers Compensation Commission. He requested that the Board make a decision to accept his son into the Program. He also thought that by the Board making a decision to accept his son into the Program it would reduce cost in legal fees for the Program. Mr. Kidder also stated that he and his attorneys had offered to meet with the Attorney General’s regarding the information. However, he had received no response from the Attorney General’s office.

Carla Collins of the Attorney General’s office noted she had talked with the his attorney’s following last month’s meeting.

Mr. Kidder requested that the January Board minutes be amended to reword or take out the phrase “short-cut” in regards to his request that the Board accept his son and not complete the prescribed admission process. George Deebo stated that he would look at the minutes and amend them accordingly.

Ralph Shelman, Chair, thanked Sturgis Kidder for coming to the meeting.

**Closed Session Regarding Legal and Claimant Issues:**

Melina Dee Perdue, Vice-Chair, 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 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 the potential impact of litigation on future regulatory actions. The motion passed unanimously.

Melina Dee Perdue, Vice-Chair, moved the adoption of the following resolution:

Whereas, the Virginia Birth-Related Neurological Injury Compensation 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 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:**

Melina Dee Perdue, Vice-Chair, stated that without detailed information on the Attorney General's findings, the board could not make any educated recommendations regarding the petition for Sturgis Kidder.

Lynn Chapman motioned to deny request of [REDACTED] for a different type of trust home because the benefit has already been provided and it is a one-time housing benefit. Susan Lucas, MD, seconded the motion and it passed unanimously.

**Other Business:**

In February, George Deebo had provided the Board members with information regarding the Florida program with regards to compensating parents to care for their children. After a brief discussion the Board members decided to table the discussion until the April Board meeting due to time conflict.

George Deebo announced that in April he wanted to discuss with the Board a concern for housing where families live in townhomes where renovations/modifications for their child cannot be made. There has not been a specific request for a benefit, but that the concern has been expressed by a claimant parent. Board members felt that it would be beneficial for the claimant family with concerns to provide specific requests.

Dr. Lucas stated that she believed the Program was not making good decisions regarding accepting or opposing petitioners to enter the Program and cited that the Program was not winning most of those cases.

George Deebo explained that the purpose of accepting or opposing petitions was not about winning or losing. He noted that the Program has a statutory obligation to assure that each petition meets the legislative requirements and that was the basis of all actions. He added that when either the objective physician panel report or the independent physician reviewer determine, based on medical records, that a petitioner does not meet the statutory requirements it is the obligation of the Program have the Workers' Compensation Commission make a decision. In cases where the panel and the Program's independent physician reviewer agree the petition should be accepted, the Program generally agrees to accept the petitioner.

Carla Collins noted that many of the petitions Dr. Lucas referred to were actually accepted by the Program prior to any hearing. The reason is that in some cases the Program does not

immediately have all the relevant information or the Program determines it cannot overcome the “presumption” for the petitioner as outlined in the law.

Ralph Shelman noted that Melina Dee Perdue would complete her second term June 30, 2007. Since Ms. Perdue was a participant of the Stakeholders meetings, he asked for a volunteer to replace her at the meetings. Lynn Chapman agreed to replace Melina Dee Perdue as participant with the Stakeholders meeting.

After a brief discussion, the Board members directed George Deebo to move forward with planning to begin a newsletter to be produced on a quarterly basis for families, physicians, hospitals and the general public. Lynn Chapman agreed to assist George Deebo with working on the newsletter. Topics for the newsletter include general information, concerns of claimant families and articles on families. George Deebo will have more information regarding price, format and distribution at the next Board meeting.

**Adjournment:**

A motion to adjourn was made by Ralph Shelman, chairperson and unanimously agreed to at 3:30 p.m.