

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for May 8, 2007**

Attendees:

Ralph Shelman, Chair
Lynn Chapman
Susan Lucas, MD, Ph.D.
McLain O'Ferrall
Jennifer Ogburn
Dalal Salomon

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Executive Assistant
Iris Allen, Claims Manager
Carla Collins, Assistant Attorney General, Office of the Attorney General
Bill McKelway, Richmond Times Dispatch
Sturgis Kidder, father of petitioning claimant

Call to Order:

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

Minutes:

Lynn Chapman motioned to accept the April Board minutes. Susan Lucas, MD, seconded the motion and it passed unanimously.

Finance:

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

Also, Candace Thomas stated that the 2006 audit was finished and the Final Audit Report had been received. The audit report and the first quarter investment report would be reviewed and discussed by the Investment and Finance Committee at their next scheduled meeting, May 24th, 2007, and then distributed. The auditor, David Bolton, would be available at the meeting to answer any questions.

Lain O'Ferrall motioned to accept the April financial statements. Lynn Chapman seconded the motion and it passed unanimously.

Investment:

Laine O’Ferrall stated that the first quarter report of 2007 would be presented at the next Investment Committee meeting. Laine O’Ferrall stated that overall the stock market was stable and the Program received positive returns during the first quarter. The first quarter report would be available to all Board members at the next Board meeting scheduled for June 12th, 2007.

Legislative Update:

George Deebo stated that the first legislative stakeholders was held on April 19th, 2007 with discussion on possible options for the Program. The second legislative stakeholders meeting will be held on Wednesday, May 9th, 2007 with members discussing more in-depth the options provided during the first meeting. Additional meetings dates are currently being established.

Public Comment:

Bill McKelway asked Candace Thomas if the Program’s deficit amount had been decreased compared to 2006. Candace Thomas stated that from 2006 to 2007 the deficit had remained approximately the same.

Sturgis Kidder made comments regarding his pending case to have his son entered into the Program. He noted that Program’s counsel in case filings had asked for legislative background information included in the claimant’s brief be excluded from the record.

Ralph Shelman, Chairperson, thanked Mr. Kidder for presenting his information.

Closed Session Regarding Legal and Claimant Issues:

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 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.

Lynn Chapman 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:

Laine O’Ferrall motioned to increase the current limit for Conductive Education/Intensive Therapy from \$12,000 to \$18,000 to meet the increased costs/services based on information received in a letter [REDACTED] claimant parent. Susan Lucas seconded the motion and it passed unanimously.

New Business:

Dalal Salomon motioned for the Program to hire outside counsel to review the Program’s legislation and advise on the role and responsibilities of Board members. The motion was seconded.

Ms. Dalal explained that she felt that there are several gray areas that need to be clarified. Discussion of the motioned followed. No action was taken on the motion. However, by consent, the Board asked the Office of the Attorney General to prepare training regarding Board member roles and responsibilities as prescribed in the Birth-Injury Act for presentation during an extended meeting in June. Ralph Shelman, chairperson, asked for a committee to be created to come up with specific questions to be addressed by the consultation group. The committee members will consist of Dalal Salomon, Susan Lucas, MD, and Laine O’Ferrall. Questions from all Board members are to be emailed to George Deebo, Executive Director, and Ralph Shelman, Chairperson, and then presented to the committee members for review.

The training session will be conducted at the next scheduled Board meeting, which will be extended from 10:00am to 4:00pm.

Ralph Shelman asked to appoint a committee to review overall Program policies. Board members who agreed to be on the committee are Lynn Chapman, Jennifer Ogburn and Ralph Shelman.

Executive Director’s Report:

George Deebo distributed a document listing 2005 and 2006 Program cases that had completed the petitioning process. The document displayed that out of 23 completed cases, the Program has taken the position that the petitioner did not qualify in 10 cases. Of those 10, by determination of the Virginia Workers’ Compensation Commission, four were admitted, four not admitted and two withdrew their petitions. Additionally, in 21 of the 23 cases, the Program’s expert reviewers agreed with the assessment of the objective medical panels. It was also noted that in many cases the Program initially must oppose entry because all the required information, often including critical medical records, has not been provided. Once all the needed information is available, the Program reevaluates the case.

George Deebo announced that a training session for Board members would be scheduled during the month of September. Program staff would be emailing dates to Board members to check availability. The training session will be an all day event.

Program staff will also be contacting the Newsletter Committee to set up a conference call over the next couple of weeks. Newsletter Committee consists of Lynn Chapman, Jennifer Ogburn and George Deebo, Executive Director.

Adjournment:

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