

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for May 12, 2009**

Attendees:

Susan Lucas, MD, Ph.D., Chair
Lain O'Ferrall, Vice-Chair
Robert Boyle, MD
Jennifer Ogburn
Dalal Salomon
Gwen Taylor, Esq, MSW

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
Frank Ferguson, Deputy Attorney General, Office of the Attorney General

Sturgis Kidder
Jock Haight, Construction Consultant

Call to Order:

Susan Lucas, Chair, called the May Board meeting to order at 1:03 pm. Susan Lucas, Chair, introduced Jock Haight, Program's Construction Consultant to the Board.

Minutes:

Carla Collins made a minor revision suggestion under minutes "as revised". Board members agreed. Lain O'Ferrall motioned to accept the revised April Board minutes. Jennifer Ogburn 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 \$175 million in investments with \$8 million of unrealized gain for April. There was a \$2 million gain from March. There are currently 112 active children in the program. Lain O'Ferrall motioned to accept the April Financial reports. Gwen Taylor seconded the motion and it passed unanimously.

Investment:

Lain O'Ferrall read the market highlight from the CapGroup report (aloud to Board members). Program has 50% in growth and 50% in value, Lain explained that one does well while the other may not so it is good that the investments are split in that manner. Lain shared that the fixed income (bonds) had a 5% gain for the first quarter of 2009. Currently, the market is weak for stocks and bonds. Housing market is down by 32%. The Program's investments are at a loss of 3.7%. The next investment committee is scheduled for today following the Board meeting at 3pm.

Legislative Update:

Shirley Ricks, Legislative Affairs Coordinator, reported that site visits were made to Delegate Harvey Morgan, Senator Charles Colgan and Delegate William Howell. They expressed support of the Birth Injury Program. They asked for the names of the Board of Directors. They asked questions about funding of the program and whether the Program has funding concerns since it is a lifetime of help. They also were interested to know when the Florida methodology evaluation will be completed and whether the Program has any legislation it wants to propose for the next session.

Public Comment:

Jock Haight, Program's Construction Consultant, gave an overview of his role and his tenure with the Program. He shared information regarding what he provides to the family and how the construction process works.

Open Session (Claimant Issues)

Mr. Sturgis Kidder was asked if desired to present his material in closed session and he declined. Mr. Kidder, father of Andrew Kidder, presented additional information for Program staff and Board to consider for pre-award expenses (originally submitted in January 2009) and attendant care. Mr. Kidder handed out several pages of material. He commented that he is only seeking reimbursement for approximately 20 hours a week for an after school program that Andrew attends.

Closed Session Regarding (Claimant Issues)

Jennifer Ogburn 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 Susan Lucas, MD, and passed unanimously.

Jennifer Ogburn 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):

Susan Lucas motioned that the Board table the request from [REDACTED] for reimbursement of pre-award and attendant care for staff to review additional information presented in today's meeting. Lain O'Ferrall seconded the motion and it passed unanimously.

Susan Lucas motioned that the Board table the request from [REDACTED] for reimbursement of van repair to allow staff to request additional information regarding the maintenance and care of the van. Jennifer Ogburn seconded the motion and it passed unanimously.

Old Business:

George Deebo informed the Board that staff had received approximately 90 of the required questionnaires to be used to implement the Florida methodology.

Director's Report:

George Deebo present all Board members with a new participant handbook. Mr. Deebo commented that the Program's decision to hire a part-time legislative staff member instead of hiring a lobbyist had been well worth it. We are getting more valuable information from Mrs. Ricks, and her presence in the General Assembly is very beneficial to current and upcoming legislative efforts that may affect the Program.

Adjournment:

A motion to adjourn was made by Susan Lucas, Chair, at 3:00 pm. It passed unanimously.