

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for June 10, 2008**

Attendees:

Susan Lucas, MD, Ph.D., Chair
Lain O'Ferrall, Vice-Chair
Robert Boyle, MD
Lynn Chapman
Dalal Salomon

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
Ted Arven
Sturgis Kidder

Call to Order:

Susan Lucas, Chair, called the June Board meeting to order at 1:00pm.

Minutes:

Lain O'Ferrall motioned to accept the May Board minutes after minor corrections were noted. 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. George Deebo mentioned that the Program was now paying the Wage Benefit to several claimant families and the expense could now be seen on the financial reports. Lain O'Ferrall motioned to accept the May Financial reports. Motion accepted by unanimous consent.

Investment:

Lain O'Ferrall commented to the Board that the Program's investments for the quarter were up by 3% but the year to date was down by 2.3%. Overall, the market is down in many areas, including the S & P that is down 5.5%.

Public Comment:

Sturgus Kidder, father of Andrew Kidder, commented to the Board that his son's petition had been awarded by the Workers Compensation Commission on May 21st, 2008. Mr. Kidder asked the Board if they would appeal the WCC's decision? Mr. Kidder also commented on the wage benefit since his son has already turned 18 years old and that he has already met with a tax attorney.

Bill McKelway, Richmond Times Dispatch, asked if Lynn Chapman's vote counted on the Board since she has resigned her seat as a Board member? Lynn Chapman stated that she had corresponded with the Governor's office and stated that she would gladly remain on the Board until a replacement was found.

Claimant Issues: (Open Session)

Ted Arven, father of Cody Arven, addressed the board regarding reimbursement for providing care to their son Cody during the first four years of his life by presenting tax information to verify parents' employment during 2003-2007. Lain O'Ferrall commented that documented expenses were still needed in order to review the Arven's request.

Closed Session Regarding (Claimant):

Susan Lucas, MD, Chairperson, 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 discussing claimant issues, 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. The motion was seconded by Lain O'Ferrall and passed unanimously.

Susan Lucas, MD, Chairperson 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):

Susan Lucas, MD, motioned to table Mr. Arven's request because the matter is in pending litigation, we table this request at this time. Bob Boyle seconded the motion and it passed unanimously.

Susan Lucas, MD, motioned that the Board did not plan to take any further action on the issue of eligibility determination on the petition of [REDACTED]. Motion accepted by unanimous consent.

Closed Session Regarding (Legal and Litigation)

Susan Lucas, MD, Chairperson, 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 probable litigation. The motion was seconded by Lain O'Ferrall and passed unanimously.

Susan Lucas, MD, Chairperson, 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 (Legal and Litigation):

Susan Lucas, MD, motioned to approve the use of the proposed Temporary Administrative Guidance regarding paying family members for care as of July 1st, until revised guidelines are adopted at the end of the regulatory process. Lynn Chapman seconded the motion and it passed unanimously.

Susan Lucas, MD, motioned to table case update until the July Board meeting. Motion accepted by unanimous consent.

Closed Session Regarding (Personnel)

In accordance with the applicable provisions of the Code of Virginia 2.2-3711(A)(1), I move that the Board go into closed meeting for the purpose of discussing a personnel matter. Motion accepted by unanimous consent.

Adjournment:

A motion to adjourn was made by Susan Lucas, Chair. The motion was seconded and unanimously agreed to at 3:30 p.m.