

# **VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM**

## **MINUTES OF BOARD OF DIRECTORS MEETING TUESDAY JUNE 10, 2003**

Following notice, a meeting of the Board of Directors of the Virginia Birth-Related Neurological Injury Compensation Program was held on Tuesday, June 10, 2003, at the headquarters of the Birth-Related Injury Program.

The following members were present:

Melina Dee Perdue  
Richard Cathey  
John R. Partridge, MD  
Anderson J. Williams, MD

Others in attendance:

George Deebo, Executive Director  
Sharon Payne, Deputy Director  
Tracy Hobson, Executive Assistant  
Marshall Cook, Hirschler Fleischer, PC  
Frank Ferguson, Attorney General's Office  
Bill McElway, Richmond Times Dispatch

A quorum was noted and the meeting was called to order.

### **1. Minutes**

The minutes of the May 13, 2003 meeting were reviewed and accepted as revised unanimously. Minutes of June 2, 2003 telephone conference was reviewed and accepted to include that FOIA was reviewed. Unanimously agreed.

### **2. Administrative Issues**

The financial reports were reviewed. Dr Partridge moved to accept and enter into records financial statements submitted. Second by Richard Cathey. Unanimously accepted.

Public Comment:

Mr. Deebo inquired as to whether or not there was any public comment, there was none.

Legislative report:

Marshall Cook did perform a seminar educating the Board and staff of the changes in legislation in regards to Freedom of Information Act. Mr. Cook presented a review of all applicable legal requirements. Conference call took place on Monday, June 2, 2003 @ 5:30 p.m. See June 2, 2003 minutes for attendance.

Dr. Partridge moved to empower George Deebo and staff to disseminate working documents that were created based on the new legislation. Board Chair, Melina Dee Perdue indicated that these documents were very nicely put together. Notice to patient with Lifetime of Help brochure will be sent to physicians and hospitals as well as an indication to hospitals that by statute, if you have a NICU unit, recommend that they give to everyone coming in. Unanimously agreed. Motion passed.

Board chair requested that Mr. McElway leave the meeting to allow discussion of claimant issues. He complied.

**3. Claimant Issues**

██████████ – Housing:

Child passed away in late 2001. Family wishes to purchase the trust home and there has been ongoing related actions through the Virginia Workers Compensation Commission. Family presented their concerns at last board meeting. Mr. Deebo, Marshall Cook, ██████████ and family's attorney all met on Monday, June 9, 2003 to discuss available options.

Board's Response:

Motion presented by Dr. Partridge to ask Mr. Deebo or Marshall Cook to send letter advising family and their attorney that the Board cannot accept their offer. They will hereby be placed on notice of the need to pay rent. If they do not wish to pay rent, they must vacate the premises. We do represent as a policy of the Board that if in 6 months after the death of a claimant, a family must begin paying rent as per the trust agreement. Staff should prepare for each situation prior to the six months.

This family was in fact placed on notice, but family responded with request to purchase home. Due to unsuccessful negotiations, family will be placed on notice at this time. Rent will be effective July 1, 2003.

So moved by Dr. John Partridge, seconded by Richard Cathey. Unanimously accepted. Motion passed.

It was noted, that in any future rental agreements – family will be given notice of rent, pursuant to occupancy agreement. This was unanimously accepted. Motion passed.

### ██████ – Housing

██████ is requesting two ramps, stair lift and shower chair in a new home that he will be building his own home due to a divorce.

Board's Response:

Board cannot act until we have a legal document concerning custody. George Deebo to incorporate a draft into overall housing policy with regards to similar matters. Confirm time frame of home construction. Willing to make decision before policy if home is already under construction and appropriate legal documentation is received from ██████.

### Letter from Dr. Samuel Pasterneck:

He feels he should be exempt from paying \$250.00 assessment fee due to the fact that he is “a very rural physician and recent cuts in insurance reimbursements.”

Board's Response:

Motion to decline his request by Melina Dee Perdue. This was second by Dr. Partridge. Unanimously agreed. Motion passed.

## 4. Executive Director's Report

George Deebo addressed the Board with a report on the events currently taking place with the Virginia Birth Injury Fund (outline attached)

Frank Ferguson addressed the Board with explanation of possible terms for the Attorney General's office to represent the Program per the new legislation. He indicated an hourly rate of \$72.00 which will likely increase in July, 2003. The rate is determined by a rolling average, per year based on historical experience. He indicated that he will be hiring two attorneys to work under him that will work on the Program's caseload. Frank Ferguson, Scott Fitzgerald and John Beall will all be available to the two attorney's for comments and opinions.

Board's Response:

Motion made by Richard Cathey to develop a letter of agreement for Attorney General's office.

Dr. Partridge suggested that we obtain in the agreement that in a situation where there may be political reasons where Attorney General cannot handle a claim for the Program that they advise our office staff as soon as possible so that we can retain an outside counsel. We will use this year as a test year and retain discretion to have private counsel. Board unanimously agreed and motion passed.

No further business was introduced and the meeting was adjourned.