

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for July 14, 2016 - Final**

Attendees:

Neal Schulwolf, Esq. – Chairman
Lydia Byrd
Vicki Harris, Esq.
Vanessa Rakestraw, Ph.D., C.R.C.
Rhonda Russell, A.I.C.P., M.P.A.
John Seeds, M.D.

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Angela Conley, Claims Manager
Carla R. Collins, Senior Assistant Attorney General, Office of the Attorney General
Liza Simmons, Assistant Attorney General
Drew Mucci, by phone, parent of admitted claimant

Call to Order:

Neal Schulwolf, Chairman, called the meeting to order at 10:45 a.m.

Minutes:

Dr. Seeds moved to approve the May minutes with revisions recommended by Senior Assistant Attorney General Carla Collins. Dr. Rakestraw seconded the motion and it passed unanimously.

Finance:

Deputy Director Thomas stated that the Program had \$404 million in investments through May of 2016, as compared to \$405 million in the previous year. Ms. Thomas reported that the Program has 153 active claimants and that no new claimants had been admitted during the previous month. Ms. Harris moved to approve the Financial Report. Dr. Seeds seconded the motion and it passed unanimously.

Investments:

Ms. Thomas reported that investments are up .2% as of June 30, 2016. Having a positive investment in a down market demonstrates the funds are well diversified.

Public Comment:

Mr. Mucci, by request, shared comments concerning pending compensation requests with the Board during the public comment period via teleconference.

Closed Session (Claimant Issues/Pending Litigation):

Chairman Schulwolf moved 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) and regarding pending litigation.

The motion was seconded by Dr. Seeds and passed unanimously. Senior Assistant Attorney General Carla Collins left the room upon Director Deebo's request and returned for the remainder of the Closed Session upon Director Deebo's request.

CERTIFICATION

Chairman Schulwolf 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 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.

The Board members were polled individually and each certified the motion.

Results of Closed Session (Claimant Issues):

B-15-03 and B-15-06: Chairman Schulwolf moved to delegate Program staff and legal counsel the authority to obtain independent medical reviews. Mr. Schulwolf further moved that if the medical evaluation demonstrates medical necessity, the Board hereby further authorize Program staff to afford the claimants compensation up to the standard Program's allowance. Mr. Schulwolf then moved in the alternative that if the medical

evaluation does not establish medical necessity, the Board review the findings and make determinations concerning the claimants' requests at the Board's next meeting. The motions were seconded by Ms. Russell and each passed unanimously by the Board.

B-05-07: Chairman Schulwolf moved that the Board table the request until appropriate documentation specified by the Program's Construction Consultant is obtained. The motion was seconded by Dr. Seeds and it passed unanimously by the Board.

B-11-09: Chairman Schulwolf moved that the Board approve the medically necessary medical equipment requested by claimant. The motion was seconded by Ms. Harris and it passed unanimously by the Board.

B-10-02: Chairman Schulwolf moved that the Board table the request until additional information is presented to demonstrate the medical necessity for this equipment and further moved that an evaluation be done to determine whether the claimant is able to use the requested equipment safely. The motions were seconded by Ms. Harris and each passed unanimously by the Board.

Chairman Schulwolf moved that the Board approve the Memo of Understanding with the Office of the Attorney General as presented. The motion was seconded by Ms. Harris and the Board passed the motion unanimously.

New Business:

Chairman Schulwolf, on behalf of the Board, thanked Dr. Seeds for his service on the Board and noted that he will be missed as a valuable Board member.

Executive Director's Comments:

None.

Adjournment:

Mr. Schulwolf, Chairman, adjourned the meeting at 12:28 p.m.