

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for April 11, 2017 - DRAFT**

Attendees:

Neal Schulwolf, Esquire, Chairman
Rebecca Filla, M. D.
Vicki Harris, J. D.
Massie Meredith, Jr.
Vanessa Rakestraw, Ph. D., C. R. C., Vice Chair
Rhonda Russell, Ed. D., A. I. C. P.
Joseph Stepp, CPA, CGFM, CFE

Also Present:

George Deebo, Executive Director
Candace Thomas, Deputy Director
Natalie Edwards, Benefits and Claims Specialist
Carla R. Collins, Senior Assistant Attorney General, Office of the Attorney General
Donna Craver, Partner, KPMG
Robin Harmon, Audit Manager, KPMG, (via conference call only)
Michael Marks, Richmond Times Dispatch

Call to Order:

Dr. Rakestraw, Vice-Chair, called the meeting to order at 10:35 a.m.

Introductions:

Those attending introduced themselves.

Minutes:

Dr. Rakestraw, Vice-Chair, moved to approve the February Minutes. Mr. Meredith seconded the motion and it passed unanimously.

Finance:

Deputy Director Thomas reported that there was one claimant awarded into the Program in February which makes a total of 154 active claimants.

Investments:

Ms. Thomas stated that as of March 31, 2017, the Program has \$445 million in reserves as compared to \$390 million for the same period during the previous year. Investment returns at the end of March were reported at .5% for the month and 3.7% for the year to date. Large Cap Equity was 7.1% for 3 months and International Equity was at 9.4%.

Dr. Rakestraw, Vice-Chair, moved that the Financial and Investment Report be approved by consensus. The Board unanimously approved the reports.

Audit Committee Report:

Mr. Stepp was nominated as the Chair for the Audit Committee. An Audit Committee meeting was held with KPMG prior to the Board meeting. KPMG gave their presentation to the Committee. On site field work is currently in progress.

Public Comment:

None

Closed Session (Pending Cases/Possible Litigation):

Mr. Meredith 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, and 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 Ms. Harris and passed unanimously.

CERTIFICATION

Mr. Meredith 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 (Case Updates/Legal Settlements)

B12-02: Dr. Filla moved that the Board direct Program staff to obtain additional information and an independent medical review and authorize staff to resolve the equipment request consistent with prior Board decisions and in accordance with the terms, conditions, and limitations on authority discussed and approved by the Board. The motion was seconded by Mr. Massey and it passed unanimously by the Board.

B-16-11: Dr. Filla made a motion that the Board approve claimant's pre-petition expenses for experimental therapy and that the Program make reimbursement based upon the total allowable yearly caps for the periods at issue. Dr. Filla further moved that any Agreement with Claimants will set forth the Program's position that post admission the Program will not agree to reimburse more than the total amount allowed by the Program's Guidelines per year for all experimental therapy and all experimental therapy-related expenses, including travel/lodging expenses for such therapy, incurred during the same year and that during the initial home visit, staff will remind Claimants that they must obtain pre-authorization and provide the paperwork required by the Program's Guidelines prior to receiving approval and reimbursement for any future experimental therapy. The motions were seconded by Mr. Massey and passed unanimously by the Board.

B-16-10; B-16-01; B-16-08: Dr. Russell moved to delegate to Program staff and legal counsel the authority to complete the negotiation process and authorize and approve settlement on behalf of the Board to resolve the pre-petition reimbursement/compensation issues and fees and costs issues pending in VWC File No. B-16-10, the pre-petition reimbursement/compensation issues pending in VWC File No. B-16-01, and the pre-petition reimbursement/compensation issues pending in VWC File No. B-16-08 in accordance with the terms, conditions and limitations on authority as discussed and approved by the Board. The motion was seconded by Mr. Massey and it passed unanimously by the Board.

Director's Comments:

None.

Adjournment:

Dr. Rakestraw, Vice-Chair, adjourned the meeting at 12:20 p.m.