

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for March 20, 2018 - Draft**

Attendees:

Vanessa Rakestraw, Ph. D., C. R. C., Chair
Dawn McCoy
Jonathan Petty, Esq.
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

Call to Order:

Dr. Rakestraw, Chair, called the meeting to order at 10:37 a.m.

Minutes:

Dr. Rakestraw, Chair, moved that the Minutes be approved. Mr. Petty seconded the motion and it passed unanimously.

Finance:

The total number of active claimants at the end of 12/31/17 was 161 and not 271. The number of active claimants remained the same at the end of January 2018. Deputy Director Thomas noted that the number reflected on the handout was an error. As of January 31, 2018, the Program has \$511 million in investment, as compared to \$495 million as of the same time last year. All deposits for assessment income had not been entered in January.

Investments:

Ms. Thomas reported investments as of February 28, 2018 at \$498 million with a loss of -1.25% for one month and a 1.5% increase for 3 months. Chair Rakestraw moved that the Financials and the Investment report be approved by consensus. The Board unanimously approved both.

Public Comment:

None.

The Board was then given the opportunity to view a van parked in front of the building to assist the Board in considering a claimant's request.

Old Business:

Mr. Petty moved that the Delegations of Authority, including Civil Settlement Authority, be approved. Dr. Russell seconded that motion and it passed unanimously.

Closed Session (Claimants' Issues/Probable Litigation):

Ms. McCoy 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 Mr. Petty and passed unanimously.

CERTIFICATION

Ms. McCoy 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 (Claimants' Issues/Probable Litigation):

B-17-06; B-17-10: Mr. Petty moved to delegate to Program staff and legal counsel the authority to complete the negotiation process and authorize and approve any agreement in principle, if reached by the parties within the limits on authority discussed by the Board, to resolve the pending fees and costs petitions pending in VWC file B-17-06 and B-17-10. Ms. McCoy seconded the motion and it passed unanimously.

B-17-04: Mr. Stepp 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 B-17-04. Mr. Petty seconded the motion and it passed unanimously.

B-07-03: Mr. Petty moved that the Board authorize, at the discretion of staff, the purchase of an appropriately priced replacement van with medically-necessary handicapped-accessible modifications within the price range and size discussed by the Board and subject to the terms and conditions of a new Van Agreement to include a pro rata increase in required mileage prior to the return of this van to the Program and that this van may not be returned before five years have elapsed since the claimant's parents have taken possession of this van. Mr. Petty further moved that the claimant's parents must acknowledge they understand and agree to comply with the terms and conditions of the new Van Agreement.

Dr. Rakestraw seconded the motion. The motion was passed with three ayes from Chair Rakestraw, Mr. Petty and Mr. Stepp followed by two nays from Dr. Russell and Ms. McCoy.

Director's Comments:

None

Adjournment:

Chair Rakestraw adjourned the meeting at 12:00 p.m.