

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for March 10, 2020 - Draft**

Attendees:

Vanessa Rakestraw, Ph. D., Chair
Kevin Logan, Esq.
Dawn McCoy
Jonathan Petty, Esq.
Ronald Ramus, M. D.
Rhonda Russell, Ed. D., A.I.C.P., M. P. A.
Joseph Stepp, C.P.A., C.G.F.M., C.F.E.

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
Mr. Drew Mucci and Mr. and Mrs. Elliott Barnes, parents of admitted claimant

Call to Order:

Dr. Rakestraw, Chair, called the meeting to order at 10:30 a.m.

Minutes:

Dr. Rakestraw, Chair, moved that the Minutes be approved. Dr. Ramus seconded the motion and the motion was passed unanimously.

Finance:

Deputy Director Thomas reported that due to the volume of activity and timing, assessments have not been recorded. There are 168 active claimants in the Program with two awarded into the Program in January; one of which was deceased upon admission. As of January, the Program has \$526 million in investments, as compared to \$472 million as of the same time last year. Executive Director Deebo commented that a review concerning the dramatic increase in expenses will be forthcoming in a future meeting. Dr. Ramus moved that the Financials be approved. Mr. Petty seconded the motion and it passed unanimously.

Investments:

Ms. Thomas reported that the Monthly Performance Report for the end of February shows investments at \$504 million with a one-month market decrease of 4.3%. The market is presently very volatile due to the world-wide spread of the corona virus. Dr. Russell moved that the Investment Report be approved. Dr. Ramus seconded the motion and it passed unanimously.

Closed Session (Claimant's Issue)

Chair Rakestraw moved in accordance with the provisions of Section 2.2-3711 (A)(7) and (8) and 2.2-3705.5 (11) 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). The motion was seconded by Dr. Ramus, and it passed unanimously.

In closed session, Mr. Mucci and Mr. and Mrs. Elliott Barnes presented their requests for case number VWC File No. B-10-06. They were excused from the Closed Session upon the conclusion of their presentation and the Board began its deliberations concerning their requests.

CERTIFICATION

Chair Rakestraw 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. Dr. Ramus seconded the motion. The Board members were polled individually and each certified the motion.

Closed Session (Claimants' Issues, Ratifications and Settlements)

Dr. Ramus moved in accordance with the provisions of Section 2.2-3711 (A)(7) and (8) and Section 2.2-3705.5 (11) 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 38.2-502.2; 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 it passed unanimously.

CERTIFICATION

Mr. Stepp 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 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 close 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 motion was seconded by Ms. McCoy. The Board members were polled individually and each certified the motion.

Dr. Ramus excused himself from the meeting due to a prior engagement, but a quorum was present for the entire Board meeting.

Results of Closed Session (Claimant's Issue, Ratifications and Settlements)

B-06-01: Chair Rakestraw, made a motion that under the facts and circumstances of this request, the claim should first be submitted through health insurance for payment; but if the claim is denied, the Program will provide reimbursement for a standard hospital bed in accordance with the terms, conditions and limitations on authority as discussed and approved by the Board. The motion was seconded by Mr. Petty and it passed unanimously by the Board.

B-99-12: Chair Rakestraw, made a motion that the request, as made, be denied. Mr. Petty seconded the motion and it passed unanimously by the Board.

B-19-05: Mr. Stepp moved to ratify and approve the proposed settlement which resolved the fees and costs claim which was reached within the limitations discussed by the Board and pursuant to the authority previously delegated by the Board to Program staff and legal counsel. Mr. Petty seconded the motion and it passed unanimously.

B-19-11: Chair Rakestraw moved that the Board delegate authority to Program staff, following consultation with legal counsel, to negotiate to resolution the pending pre-Petition reimbursement/compensation claims in accordance with the parameters and conditions discussed and approved by the Board. The motion was seconded by Mr. Logan and it passed unanimously by the Board.

B-19-12: Ms. McCoy moved that the Board appeal the Opinion issued in VWC File No. B-19-12 and authorize counsel to file an Application/ Request for Review with the Full Commission. The motion was second by Mr. Logan and it passed unanimously.

B-10-06: Chair Rakestraw moved that the Board table the request and instruct Program staff to obtain additional information. The motion was seconded by Mr. Stepp and it passed unanimously.

New Business:

No new business.

Adjournment:

Dr. Rakestraw adjourned the meeting at 12:15 p.m.