

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for December 8, 2020 - Draft**

Attendees:

Rebecca Filla, M. D.
Michael Hoover, C.F.A.
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
John Raines, Deputy Director in-training
Natalie Edwards, Benefits and Claims Specialist
Carla R. Collins, Senior Assistant Attorney General, Office of the Attorney General

Call to Order:

Dr. Filla, Vice Chair, called the meeting to order at 10:30 a.m. John Raines, Deputy Director in-training, was introduced to the Board.

Dr. Russell excused herself from the meeting; but returned after the Minutes were approved. A quorum remained throughout the meeting for conducting the business of the Board.

Minutes:

Mr. Petty moved that the Minutes, as revised, be approved. Mr. Stepp seconded the motion and the motion was passed unanimously.

Finance:

There are 241 admitted claimants as of October 31, 2020 with 172 active admitted claimants in the Program as of the same date. Deputy Director in-training John Raines reported \$517 million in investment as of October 31, 2020, as compared to \$492 million as of the same time last year. The increase primarily is due to market increases. The Financial Report was approved by consensus.

Investments:

Prior to the Board meeting, the Investment Committee met with Tim Jester and Lisa Longest with The Colony Group. It was agreed that a secondary portfolio with LGT will

be opened this month. The Program's portfolio is broadly diversified and will continue to be monitored. Mr. Petty moved that the Investment Report be approved. Dr. Ramus seconded the motion and it passed unanimously.

There was no Public Comment. Mr. Hoover excused himself from the meeting at this time; but a quorum remained throughout the meeting for conducting the business of the Board.

Closed Session (Claimants' Issues, Ratifications and Settlements):

Dr. Filla moved that the meeting convene 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, 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 it passed unanimously.

CERTIFICATION

Dr. Filla 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. Mr. Petty seconded the motion. The Board members were polled individually and each certified the motion.

Results of Closed Session (Claimants' Issues, Ratifications and Settlements)

B-20-06, B-20-07, B-20-04, B-20-02 and B-20-08: Dr. Filla moved that the Board ratify the settlements in lieu of litigation to resolve the pre-Petition reimbursement claims in the cases of B-20-06, B-20-07, B-20-04, B-20-02, and B-20-08, as discussed by the Board. Mr. Petty seconded the motion and it passed unanimously.

B-20-07, B-20-02, B-20-04, and B-20-08: Dr. Filla moved that the Board ratify the settlements in lieu of litigation to resolve the Section 38.2-5009.1 claims in the cases of B-20-07, B-20-02, B-20-04, and B-20-08, as discussed by the Board. Dr. Ramus seconded the motion and it passed unanimously.

B-19-07: Dr. Filla moved that the Board ratify the settlements in lieu of litigation to resolve the fees and costs claims in the case of B-19-07, as discussed by the Board. Mr. Petty seconded the motion and it passed unanimously.

B-20-07, B-20-04, and B-20-02: Dr. Filla moved that the Board approve settlements in lieu of litigation concerning fees and costs claims in the cases of B-20-07, B-20-04, and B-20-02. Dr. Ramus seconded the motion and it passed unanimously.

B-20-11, B-20-09 B-20-06, B-19-11 and B-20-08: Dr. Filla moved that the Board delegate authority to Program staff, following consultation with legal counsel, to negotiate to resolution the pending pre-Petition reimbursement claims in the cases of B-20-11 and B-20-09; and to negotiate to resolution the pending fees and costs claims in the cases of B-20-06, B-19-11, and B-20-08 in accordance with the parameters and conditions discussed and approved by the Board. Mr. Petty seconded the motion and it passed unanimously.

B-12-07: Dr. Filla moved that the Board deny the claim as made and delegate authority to Program staff to inform Claimants of battery back-up options and Program procedures concerning such requests. Dr. Ramus seconded the motion and it passed unanimously.

B-05-10: Dr. Filla moved that the Board deny the claim as made and delegate authority to Program staff to inform Claimants of battery back-up options and the applicable Program procedures. Mr. Petty seconded the motion and it passed unanimously.

B-94-07: Dr. Filla moved that the Board deny the claim as made. Dr. Ramus seconded the motion and it passed unanimously.

New Business:

The Executive Director briefly discussed electronic communication meetings and recommended that the Board discuss the matter further at a future meeting.

Adjournment:

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