

**Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for May 11, 2021 - Draft**

Attendees:

Vanessa Rakestraw, Chair
Rebecca Filla, M.D., Vice-Chair
Michael Hoover
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
John Raines, 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 10:30 a.m.

Minutes:

Mr. Petty moved that the Minutes be approved. Dr. Filla seconded the motion and the motion was passed unanimously.

Finance:

Deputy Director Raines reported \$615 million in investments, as compared to \$459 million as of the same time last year. Overall, the Program continues to see a gradual increase in costs due to many factors, including inflation, which is especially high in the medical and housing sectors.

Investments:

Prior to the Board meeting, the Investment Committee met with Lisa Longest with The Colony Group. Mr. Hoover stated the portfolio is doing well and a slight rebalancing of investments was approved at the Investment Committee. As of April 30, 2021 the market value was approximately \$634 million with a 6.8% increase year-to-date.

Mr. Logan moved that the Financial and Investment reports be approved. Dr. Filla seconded the motion and it was passed unanimously.

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

Dr. Filla, Vice-Chair, 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 Dr. Ramus, and it passed unanimously.

CERTIFICATION

Dr. Filla, Vice-Chair, 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-04-08: Chair Rakestraw moved that the Board table the request made in Case B-04-08 and for staff to obtain additional information. Dr. Filla seconded the motion and it passed unanimously.

B-14-06: Chair Rakestraw moved that the Board deny the request made in Case B-14-06. Dr. Filla seconded the motion and it passed unanimously.

B-20-11: Chair Rakestraw moved that the Board ratify the settlements in lieu of litigation concerning the pre-Petition reimbursement/compensation claims and fees and costs claims in the case of B-20-11. Mr. Petty seconded the motion and it passed unanimously.

B-20-12: Chair Rakestraw moved that the Board ratify the settlement in lieu of litigation concerning the pre-Petition reimbursement/compensation claims in the case of B-20-12. Mr. Petty seconded the motion and it passed unanimously.

B-21-02 and B-20-12: Chair Rakestraw moved that the Board delegate authority to Program staff following consultation with legal counsel, to negotiate to resolution the pre-Petition reimbursement/compensation claims in the case of B-21-02 and any fees and costs claims made in case numbers B-21-02 and B-20-12, in accordance with the parameters and conditions discussed and approved by the Board. Ms. McCoy seconded the motion and it passed unanimously.

The Board agreed by consensus to appeal case B-19-08 to the Full Commission, to serve as joint plaintiffs as subrogate to the Estate of Jett Michael Etchieson in the suit filed before the Stafford County Circuit Court, and that the Executive Director may exercise his delegated authority to resolve the matter pending in matter B-97-01.

New Business:

No new business.

Executive Director's Comments:

Executive Director Deebo announced that Jan Cox, administrative assistant, will be retiring from the Program.

Adjournment:

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