

Virginia Birth-Related Neurological Injury Compensation Program
Board of Director's Meeting
Minutes for September 12, 2023- DRAFT

Attendees:

Joseph Stepp, CPA, CGFM, CFE, Chair
Jonathan Petty, Esq., Vice Chair
Dawn R. McCoy, MPP
Kevin Logan, Esq.
Michael Hoover, CFA.
Cathy Slusher, M.D.
Ronald M. Ramus, M.D.

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
Alexander R. Smith, Paralegal Senior, Office of the Attorney General

Call to Order:

Mr. Stepp, Chair, called the meeting to order at 10:30 a.m.

Minutes:

Mr. Stepp, Chair, moved that the Minutes be approved. Dr. Slusher seconded the motion, and the motion passed unanimously.

Finances and Investments:

Mr. Raines reported that the Program has approximately \$650 million in investment, as compared to \$623 million as of the same time last year. The Program saw an increase in administrative expenses almost all due to market conditions and an increase in performance billing regarding financial reserves.

Mr. Stepp, Chair, moved that the financial and investment reports be approved. Dr. Ramus seconded the motion, and the motion passed unanimously.

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

Mr. Stepp, 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 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

Mr. Stepp, 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's 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. Stepp, Chair, individually polled each of the members of the Board, and each Certified the Resolution.

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

B-23-03: Mr. Stepp moved that the Board approve, following consultation with legal counsel, settlements solely in lieu of litigation, without any finding or eligibility determination being made, of all reimbursement/ compensation and all fees and costs claims made in case number B-23-03, in accordance with the parameters and conditions discussed and approved by the Board, including the dismissal with prejudice. Dr. Ramus seconded the motion and it passed unanimously.

B-06-06: Mr. Stepp moved that the Board deny the request made by claimants for reimbursement/ compensation that is not provided for by the Virginia Birth-Related Neurological Injury Compensation Act or the Program's regulations in the matter of case B-06-06. Mr. Logan seconded the motion and it passed unanimously.

B-23-04, B-23-05, and B-23-06: Mr. Stepp moved that the Board delegate the authority necessary to the Executive Director and the Chairman, as required by law, after consultation with legal counsel, to settle in lieu of litigation, the pre-Petition reimbursement/ compensation claims and/or fees and costs claims in each of the case numbers B-23-04, B-23-05, and B-23-06, in the event that they are resolved in lieu of litigation before the next board meeting. Mr. Petty seconded the motion and it passed unanimously.

Closed Session (New Business - Personnel):

Mr. Stepp, Chair, moved that the meeting convene in accordance with the provisions of Sections 2.2-3711 (A)(8) and 2.2-3711 (A)(1) of the Code of Virginia, and go into closed meeting for the purpose of consultation with legal counsel employed or retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel regarding a personnel matter pursuant to Virginia Code § 2.2-3711(A)(1), more specifically preparation for legal counsel transition. Mr. Petty seconded the motion and it passed unanimously.

Mr. Stepp, 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's 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. Stepp, Chair, individually polled each of the members of the Board, and each Certified the Resolution.

Results of Closed Session (New Business - Personnel):

Mr. Stepp moved that the Board delegate the authority necessary to the Chairman to approve the proposed Memorandum of Understanding with the Office of the Attorney General to compensate it for its services from September 12, 2023, through June 30, 2025, as proposed in that agreement, superseding any and all other such agreements. Dr. Ramus seconded the motion and it passed unanimously.

Executive Director's Comments:

Mr. Deebo has been in contact with the Secretary of the Commonwealth's Office regarding new and re-appointments since several Board member terms end June 30, 2023.

Adjournment:

Mr. Stepp, Chair, moved that the meeting adjourn at 11:56 a.m. Mr. Petty seconded the motion, and it passed unanimously.