Virginia Birth-Related Neurological Injury Compensation Program

Program Board of Directors Meeting Minutes

October 14, 2025

Attendees:

David Ratz, Esq., Chair

James B. Moon

Jeremy Greenfield

M. Cathy Slusher, M.D

John Gordon, C.P.A

Kevin Logan, Esq.

Joel Dillon, Vice-Chair

Virtual:

Patricia Byrnes-Schmehl, Northern Virginia

Also Present:

Dawn McCoy, Executive Director

Ronda Holloway, Operations Manager

Carla Collins, Chief Program Officer

Razaz Ali, Claims Processing Manager

Alexander Smith, Claims Specialist

Hanna Bareford, Human Resources Assistant

Charlotte Spence, Communications Specialist

Tammy Ratliff, Nurse

Brian Campo, Construction Project Manager

Stephen Weir, C.E.O., Trustward

Luca Powell, Richmond Times Dispatch

Adonica Baine, Esq., Office of the Attorney General

Calvin Brown, Esq., Office of the Attorney General

Penny Gough, President, M.C. Innovations

John Paolacci, Chief of Operations, Rising (Virtual)

Ann Jones, Esq.

Andrew Gillman, Sklar Technology Partners

Eric Lowe, Chief of Data Analytics, Artificial Intelligence, and Cyber for the Virginia Bureau of Insurance

Sarah Paskins, mother of an admitted claimant

Beth Sanner, grandmother of an admitted claimant

Alan Polsky, grandfather of an admitted claimant

Marissa Goldsmith, mother of an admitted claimant

Call to Order:

Chairman David Ratz called the meeting to order at 8:42 a.m.

Introduction of Participants:

All board members present introduced themselves.

Minutes from Previous Meeting:

Board Chair Ratz motioned to discuss the September 16, 2025, Board meeting minutes.

Member Cathy Slusher motioned to approve the minutes and Member John Gordon seconded the Motion.

The Motion was voted upon and passed unanimously.

OCIO Search Update:

Stephen Weir, Trustward CEO, joined the Board members at the table to discuss the Outsourced Chief Investment Officer (OCIO) Search Firm consultant that was reviewed at the Investment Committee Meeting last month. Weir mentioned that he is actively working on the agreement to present to the Board at the November meeting if everyone agrees to the terms.

Financial Update:

Weir presented the Program's financials, noting that reports for 2022-2024 are complete, while 2025 is expected by December.

Reimbursements to admitted claimants totaled $28.4 million in 2024 compared to $27.3 million in 2023. Administrative expenses rose to $2.1 million in 2024 compared to $1.1 million in 2023, representing 7.3% of the Program's total spending, which is below the median of ~15% for similar types of organizations. Weir anticipates higher administrative costs in 2025.

In response to Member Joel Dillon, Weir confirmed that administrative expenses include investment and settlement fees outside contractor costs, and other organizational expenses. He emphasized that there are no legally defined thresholds for administrative spending, and the Board must exercise judgement.

Board Chair David Ratz, inquired about fluctuations in cash flow and spending increases. Weir attributed these to staff growth, turnover, contractor use, audits, and legal expenses—all included in the 2024 figures.

Board member, James Moon, asked whether Weir sees it leveling out and decreasing as time progresses. Weir responded that while spending has been historically low, it is expected to increase then again level out over time and remain within the threshold of ~15%.

Audit Updates:

Stephen Weir reminded the Board that the Program is currently undergoing a 3-year audit from 2022-2024 and they are hoping to present the findings at the December meeting. He shared that the Office of the Inspector General (OSIG) audit is underway, too, and the

Program is still in the beginning phases of that. Board member John Gordon asked about any feedback thus far. Weir responded saying there were control issues from 2022-2024 and the audit will report on said issues.

Committee Charter Adoption:

Board Chair Ratz introduced the proposed Finance Committee Charter, noting the Board's longstanding interest in establishing the committee. Board member Gordon supported this initiative, stating it would enhance engagement with Program Management and provide more timely financial oversight. The committee would meet quarterly, collaborate with the Chief Financial Officer (currently Trustward), and review budgets, audits and financial reports. The Finance Committee would also coordinate with the Investment Committee and Executive Director, Dawn McCoy, on strategic planning, reporting back to the Board regularly. Board member Jeremy Greenfield asked about coordination with an Audit Committee. Chairman Ratz and Member Gordon clarified that an Audit Committee does not yet exist but would be a logical step. Board member Dillon endorsed the Charter and recommended biennial reviews and updates. A motion to adopt the Charter was made by Member James Moon, seconded by John Gordon and passed unanimously.

Program Update:

Penny Gough (MCI) and John Paolacci presented Rising and Vision metrics. Three enhancements to the Vision portal were introduced: easier copying of timesheet/mileage data, auto-totaling reimbursement forms, and default payee selection. These features were released simultaneously.

Ms. Gough mentioned that 161 direct deposit enrollments have been made, with 219 family users in Vision. She followed up by saying that their metrics show that 189 times families have logged into Vision since the first of October, and through the end of September, they have processed and paid 2,697 claims. Gough stated that 876 prescriptions have been filled year to date totaling $240,975 with total pharmacy savings of $225,620.

Paolacci noted claims processing time has decreased significantly from May to 11-18 days through Vision, aiming for the 14-day industry standard. Chairman Ratz asked for clarification on whether the 14 days meant from submission to payment or otherwise, and Gough responded by saying yes, that 14-day processing time refers to the time from claim submission to payment of the admitted claimant. Delays in processing are largely due to waiting on family documentation. Chairman Ratz asked if every claim in the Vision portal

must go through the same approval process. Gough mentioned that Vision's workflow can be adjusted to allow autopayments for funding with set thresholds.

Paolacci then spoke about Rising's current Net Promoter Score (NPS) from the feedback they have received from Vision. He mentioned 106 feedback comments were received in August, with 229 total since going live. The NPS in August was 9.95 and a score of 9.80 in September. Ratz asked if the feedback is there, can they share that with the Board. Paolacci mentioned that when they receive feedback that is less than ideal, they will reach out to the family to see if everything is okay and to see how they can assist them, this is within 1 business day, and they will share the results.

Dillon asked about the 5% of families who have not been paid yet and how that compares to other organizations. Paolacci explained that some requests arrive late in the month, making it unlikely to ever be 100%. Member Cathy Slusher asked how many claimants use Vision, and Paolacci said it is below 60%. Ratz noted some families may be inactive, and Slusher suggested identifying them to refine usage metrics. Paolacci said he will provide a list of active/inactive claimants. Director McCoy confirmed outreach efforts are ongoing, and data will be shared.

Ratz asked Paolacci and Gough about the total payment by month figure between August and September, and how did the increase happen. Paolacci attributed it to improved funding approvals and more weekly timesheet submissions. Member Gordon asked if the volume for September is expected going forward and Paolacci responded by saying that in about 90 days, they will have a decent idea of their projections. Gough added that 300 payments were catch-up claims before May. Members Gordon and Ratz discussed streamlining approvals by settling thresholds and allowing Rising to make payments with periodic audits. Member Moon supported audit-approved payments for certain benefits. Paolacci noted funding confirmation would still be required. Director McCoy said that discussions are ongoing, and decisions will be made by the next meeting. Member Moon said he would like to see a dollar amount in that assessment. Chairman Ratz clarified that the assessment would be focused solely on the Vision-submitted claims.

Claims Status BPA:

Executive Director McCoy said that Benefit Plan Administrators (BPA), former third-party administrator, submitted documentation for 184 claims from 2024-2025 and 168 of those claims were from healthcare providers and the rest were from admitted claimants' families. The week prior to the board meeting, $95,000 was issued to admitted claimants' families from the outstanding BPA claims. The Program has asked admitted claimants' families to

reach out to the Program to report any outstanding claims. Executive Director McCoy confirmed all documented BPA claims have been paid, with most documentation received in late September and early October. Member Greenfield asked about submission deadlines, and McCoy clarified the process is proactive, and no outstanding claims are currently known.

Policy Review:

Executive Director Dawn McCoy shared that, following a request from the Board, the Program began creating process maps and Standard Operating Procedures (SOPs) for the first time in 30 years. Working with MindSalt, LLC, the team has completed Accounts Receivable documentation and is working on Accounts Payable and Claims workflows. Deliverables will be ready for the Board's review at the November meeting. Member Gordon asked about the correlation between the audit and this effort. Director McCoy explained the effort supports the audit requirements and addressing staff changes. Chairman Ratz asked if the Program had any SOP's and process maps before this was requested. McCoy responded affirmatively but noted that there were not many from the previous Administration.

Proposed Benefit Amount Changes:

Director McCoy presented a proposal to increase reimbursement amounts for medically necessary expenses, such as handicapped-accessible vans, insurance for such vans, toys, family counseling for caring for admitted claimants, and funeral expenses to better reflect current market rates. Ms. McCoy mentioned that any change would require a formal regulatory process and stakeholder engagement. Chairman Ratz acknowledged the economic necessity of the proposal but noted it would not be immediate. The proposal includes forming an advisory committee with admitted claimants' families and representatives for input. Member Moon inquired about the Board's authority to act following feedback. Chairman Ratz responded saying we must go through the regulatory process, but in the interim, temporary increases may be considered. Adonica Baine from the Office of Attorney General advised that Executive Branch approval and an economic analysis are required, with a typical timeline of 18-24 months. However, a fast-track process may be available if the changes are non-controversial. Ms. McCoy informed the Board she will have suggested next steps available, an outline of the Advisory Committee, and a full analysis of this project at the next meeting scheduled for November. A Motion

was made by Member Cathy Slusher to implement a Parent Advisory Committee, and Member James Moon seconded the Motion. It was voted on and passed unanimously.

Director McCoy also updated the Board on MC Innovations/Rising. She affirmed a comment from Ms. Gough that the agreement between MC Innovations and the Program that the Agreement has automatic one-year renewal that was not objected by either party in August 2025. Director McCoy further noted that a Request for Proposal (RFP) is in the preparation stage and will be formally underway after the New Year as the contract has renewed through November 2026.

Actuarial Report:

Eric Lowe, Chief of Data Analytics, Artificial Intelligence, and Cyber for the Virginia Bureau of Insurance, presented a comprehensive actuarial and financial overview of the Virginia

Birth-Related Neurological Injury Compensation Program. Representing the State Corporation Commission (SCC), Lowe clarified that the Bureau of Insurance and the SCC provide independent actuarial oversight, including biennial evaluations to determine whether the Fund is being maintained on an actuarially sound basis. These evaluations are formally reported to state leadership when the Fund is deemed unsound. Mr. Lowe emphasized that the SCC does not administer the Program itself; it does not make eligibility determinations, compensation decisions, or policy judgments, but rather serves as the independent regulatory body responsible for actuarial oversight. The SCC's responsibilities include determining liability insurer assessment rates (currently capped at

1.41%), reviewing and approving the Program's Plan of Operation, implementing amendments as necessary, and holding the authority to suspend non-participating physician assessment collections when the Fund reaches actuarial soundness.

Mr. Lowe outlined the Program's origins during the 1987 medical malpractice crisis and its initial stability. Financial stress emerged in 1999, with deficits escalating to $169 million by 2009 due to reduced assessment of revenues, optimistic life expectancy assumptions, and rising medical costs.

Between 2010 and 2016, the Program experienced significant recovery marked by financial and operational improvements. In 2010, the Fund's deficit stood at $154.6 million but improved to $61.9 million in 2011, primarily due to strong investment returns. By 2014, the deficit had narrowed to $32 million, and in 2016 it was reported at $48 million. Mr. Lowe attributed these improvements to several key factors: legislative reforms that adjusted assessment levels, improved Program management practices, strong investment

performance, and refined actuarial methodologies based on more robust data. During this period, the Fund's cash position strengthened considerably—from approximately 30 years of projected benefit-paying capacity in 2010 to more than 50 years by 2016—indicating enhanced long-term stability.

From 2019 and 2023 volatility returned, due to investment performance. Despite a $106.2 million deficit reported in 2023, the Fund retained sufficient cash reserves to cover claimants for 50-plus years. The projected deficits for future years are $112.6 million for 2024, $122 million for 2025, and $135 million for 2026. The actuarial models assume a conservative annual investment return rate of 5.25%, reduced from historical rates of around 7%, reflecting current market conditions and prudent forecasting standards.

Mr. Lowe highlighted that the Fund's actuarial position is increasingly sensitive to investment performance, which has become the single largest driver of projection variance. Sector-specific inflation rates have replaced general indices to improve accuracy. He also emphasized that actuarial projections differ from CPA audits, as estimate future obligations based on assumptions and historical trends, and are subject to significant uncertainty.

The Bureau's actuarial methodology has evolved over the Program's history. Between 1989 and 2010, assessments were based on aggregate data and generic mortality rates. Following legislative changes in 2010, the Program adopted the "Florida methodology," which uses individualized life-plan modeling based on medical status and benefit-specific inflation. This model has improved the precision of projections and the credibility of the actuarial reports. The Program's actuarial work is conducted by Bob Walling of Nimble Actuaries, a nationally recognized expert who also advises Florida's program.

Mr. Lowe noted that despite occasional volatility, the Fund's overall position has strengthened. Since 2013, assessment levels for participating physicians and hospitals have remained constant, yet annual assessment income continues to exceed benefit payouts. Investment returns have generally been favorable, aside from a few years of market downturns. Legislative reforms that broadened eligibility criteria in the early 2000s contributed to higher participation rates and costs, as initial restrictions requiring both a participating physician and hospital were relaxed to require only one. He explained that the Program serves as the sole legal remedy for qualifying families; children who do not meet eligibility criteria typically pursue compensation through the civil court system.

When comparing Virginia's Fund with Florida's, Mr. Lowe stated that Florida's program has historically maintained a larger reserve base because it never suspended assessments, allowing greater investment growth over time. However, Virginia's Fund benefits from stronger statutory protections as a trust fund, ensuring that its assets cannot be redirected

for other state purposes. He cautioned that if such protections were ever weakened, it could have a severe impact like instances in Florida where reserve redirection impaired program solvency.

Mr. Lowe's discussed the current assumed investment return rate of 5.25%, noting some actuaries advocate lowering it to 4.25%- 4.5% due to changing interest rates. He and his team continually assess whether actuarial models should reference long-term historical returns dating back to 1929 or more recent 20-year trends to balance accuracy with relevance. The next actuarial evaluation, covering data through year-end 2025, is expected in early 2026. Mr. Lowe concluded that the Fund is not technically actuarially sound; it remains financially stable and capable of meeting obligations for decades. He stressed the importance of consistent actuarial methodologies, clear definitions of "actuarial soundness", and prudent investment assumptions to ensure long-term sustainability.

Statement of Public Procedures:

Chairman Ratz proposed establishing a structured framework for public comment during Board meetings, ensuring designated time slots and prior awareness of the context of each presentation to promote consistency and transparency.

Public Comment:

Beth Sanner, grandparent of an admitted claimant, expressed concern over unpaid medical bills, stating families are facing significant medical debt due to sporadic reimbursement checks from the Program.

Sarah Paskins, mother of an admitted claimant, reported over $22,000 in outstanding reimbursements for medical bills and mileage expenses dating back approximately two years. She described logistical challenges in securing payment for a medical appointment, including delayed communication and same-day payment issues with Rising. Paskins noted that only $5,000 was initially paid, with the remainder issued in staggered payments, and Rising had not been updated on the situation. She emphasized the financial and emotional strain caused by the delays.

Paskins voiced frustration over delayed communication and unresolved reimbursements from the Program. Additionally, she raised concerns about unpaid therapy, insurance premiums, and BPA-related claims totaling an estimated $20,000–$55,000, despite repeated submissions of required documentation. She urged the Board to prioritize accountability and support for families.

Marissa Goldsmith, mother of an admitted claimant, raised concerns regarding procurement transparency and Freedom of Information Act (FOIA) compliance. She objected to the use of the term "toy" for augmentative communication devices, emphasizing their medical necessity. She cited irregularities in emergency contract postings and questioned the lack of publicly available RFPs and procurement documents.

Goldsmith highlighted the MindSalt contract's $100,000 invoicing over two months and called for all contracts to be posted online. She also questioned IT service costs, requested clarity on verbal triage instructions given to staff, and recommended that the Office of the State Inspector General (OSIG) review the Program's procurement practices. She concluded by stating that the Fund's operations lack transparency and require stronger oversight.

Alan Polsky, grandparent of an admitted claimant, expressed disappointment over the

Board's perceived lack of action despite months of attending meetings. Polsky appreciated the acknowledgement of the Raines issue and steps taken to strengthen internal safeguards but warned that failure to properly conduct audits could lead to similar issues. He further stated that little money was recovered from the embezzlement and advised the Board to establish a line item for a fidelity bond. While supportive of the Parent Advisory Board, he opposed adding structure to Public Comment.

Closed Session:

Chairman Ratz moved to go into Closed Session at approximately 11:30 a.m.

In accordance with the provisions of §2.2-3711 (A)(1); § 2.2-3711 (A)(7); § 2.2-3711 (A)(8); and §2.2-3711 (A)(29) of the Code of Virginia, he moved that the Board of Directors for the Virginia Birth Related Neurological Injury Compensation Program go into closed meeting for the purpose of:

Discussion regarding personnel matters, including recent resignation of staff and a review of the former finance employee's performance.

Consultation with legal counsel and staff regarding matters that could impact litigation or negotiation strategy. Topics included:

1) Contracts with the past and current claims servicing companies

2) Pending claims and litigation related to birth injuries

3) The pursuit of monetary claims on behalf of the Program

4) Contracts with prospective accounting firms

Additionally, the Board discussed the award of a public contract involving the expenditure of funds, including bidder interviews and contract terms, where open discussion could compromise negotiation strategy. Board member John Gordon seconded the Motion. The Motion was voted upon and passed unanimously.

Certification:

Chair Ratz moved for the adoption of the following Resolution by the members of this Board of Directors:

WHEREAS, the Virginia Birth-Related Neurological Injury Compensation Program's Board has convened in 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, §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 in the closed meeting by the Board.

Member Joel Dillon, Vice-Chair, seconded the Motion. The members of the Board were polled individually and each certified the Resolution.

Chairman Ratz motioned to adopt the resolution from the Program's Board to make an offer in case number B-22-04 as discussed in Closed Session. Board member John Gordon seconded the Motion. All members voted upon the Motion, and it was approved unanimously.

Executive Director Comments:

Executive Director, Dawn McCoy, welcomed new Board member Jeremy Greenfield who currently serves as the Vice President of Sentara Insurance.

Adjournment:

Chairman Ratz moved to Adjourn the meeting at 2:19 p.m., and the Motion was seconded by Board Member John Gordon. The Motion was voted upon and passed unanimously.