

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 74 Session of 2013

INTRODUCED BY GODSHALL, MICOZZIE, O'NEILL AND CUTLER,
JANUARY 10, 2013

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 10, 2013

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, adding and changing
3 definitions; further providing for the unified judicial
4 system; establishing the appellate division of Medical
5 Professional Liability Court; further providing for transfers
6 between intermediate appellate courts, for lien of judgments
7 for money, for direct appeals to the Supreme Court from
8 courts of common pleas, for allowance of appeals from
9 Superior and Commonwealth Courts, for appeals to Superior
10 Court from courts of common pleas, for original jurisdiction
11 of the Commonwealth Court and for appeals to the Commonwealth
12 Court from courts of common pleas; providing for the
13 jurisdiction of the appellate division of Medical
14 Professional Liability Court and for the organization and
15 jurisdiction of the Medical Professional Liability Court;
16 establishing the Medical Professional Liability Court
17 Qualifications Commission and prescribing its powers and
18 duties; further providing for selection of judicial officers,
19 for vacancies in judicial offices and for retention election
20 of judicial officers; providing for selection and retention
21 of judges of the Medical Professional Liability Court and for
22 salaries of judges of the Medical Professional Liability
23 Court; establishing the Medical Professional Liability Court
24 Fund and providing for receipts and payments; further
25 providing for right to appellate review and for appeals
26 generally; and making editorial changes.

27 The General Assembly of the Commonwealth of Pennsylvania
28 hereby enacts as follows:

29 Section 1. The definition of "appellate court" in section
30 102 of Title 42 of the Pennsylvania Consolidated Statutes is

1 amended and the section is amended by adding definitions to
2 read:

3 § 102. Definitions.

4 Subject to additional definitions contained in subsequent
5 provisions of this title which are applicable to specific
6 provisions of this title, the following words and phrases when
7 used in this title shall have, unless the context clearly
8 indicates otherwise, the meanings given to them in this section:

9 * * *

10 "Appellate court." Includes the Supreme Court, the Superior
11 Court [and], the Commonwealth Court[.] and the appellate
12 division of Medical Professional Liability Court.

13 "Appellate division." The appellate division of Medical
14 Professional Liability Court established under section 581
15 (relating to appellate division of Medical Professional
16 Liability Court).

17 * * *

18 "Medical Professional Liability Court." The court
19 established under section 811 (relating to Medical Professional
20 Liability Court).

21 "Medical Professional Liability Court rule." A rule or order
22 promulgated by the Medical Professional Liability Court.

23 * * *

24 "Statewide judges." Judges of the Supreme Court, Superior
25 Court, Commonwealth Court and Medical Professional Liability
26 Court.

27 * * *

28 Section 2. Section 301 of Title 42 is amended to read:

29 § 301. Unified judicial system.

30 The judicial power of the Commonwealth shall be vested in a

unified judicial system consisting of the:

(1) Supreme Court.

(2) Superior Court.

(3) Commonwealth Court.

(4) Medical Professional Liability Court.

[(4)] (5) Courts of common pleas.

[(5)] (6) Community courts.

[(6)] (7) Philadelphia Municipal Court.

[(7)] (8) Pittsburgh Magistrates Court.

[(8)] (9) Traffic Court of Philadelphia.

[(9)] (10) Magisterial district judges.

All courts and magisterial district judges and their jurisdiction shall be in this unified judicial system.

Section 3. Chapter 5 of Title 42 is amended by adding a subchapter to read:

SUBCHAPTER D

APPELLATE DIVISION OF MEDICAL PROFESSIONAL

LIABILITY COURT OF PENNSYLVANIA

Sec.

581. Appellate division of Medical Professional Liability Court.

582. Powers of appellate division.

583. Seat of appellate division.

§ 581. Appellate division of Medical Professional Liability Court.

(a) General rule.--There shall be an appellate division of Medical Professional Liability Court which shall consist of the president judge and the other judges in regular active service.

(b) Panels and en banc.--When reviewing orders of the Medical Professional Liability Court, the appellate division

1 shall sit in panels, and no member of the appellate division
2 shall participate as a member of a panel in the judicial review
3 of any order or other action in which the person participated as
4 a matter of original jurisdiction. A decision of a panel may be
5 reviewed by the division en banc.

6 § 582. Powers of appellate division.

7 The appellate division of Medical Professional Liability
8 Court shall have all powers necessary or appropriate in aid of
9 its jurisdiction which are agreeable to the usages and
10 principles of law.

11 § 583. Seat of appellate division.

12 The regular sessions of the appellate division of Medical
13 Professional Liability Court shall be held in the cities of
14 Harrisburg, Philadelphia and Pittsburgh and elsewhere as
15 prescribed by Medical Professional Liability Court rule.

16 Section 4. Sections 705, 707, 722, 724, 742, 761(a) and
17 762(b) of Title 42 are amended to read:

18 § 705. Transfers [between] among intermediate appellate courts.

19 The Superior Court [and], the Commonwealth Court and the
20 appellate division of Medical Professional Liability Court shall
21 have power pursuant to general rules, on their own motion or
22 upon [petition] application of any party, to transfer any appeal
23 to [the other court] another appellate court or division for
24 consideration and decision with any matter pending in such other
25 court or division involving the same or related questions of
26 fact, law or discretion.

27 § 707. Lien of judgments for money.

28 Any judgment or other order of the Supreme Court, the
29 Superior Court [or], the Commonwealth Court or the appellate
30 division of Medical Professional Liability Court for the payment

1 of money shall not be a lien upon real property in any county
2 until it is entered of record in the office of the clerk of the
3 court of common pleas of the county where the property is
4 situated, or in the office of the clerk of the branch of the
5 court of common pleas embracing such county, in the same manner
6 as a judgment transferred from the court of common pleas of
7 another county.

8 § 722. Direct appeals from courts of common pleas.

9 (a) General rule.--The Supreme Court shall have exclusive
10 jurisdiction of appeals from final orders of the courts of
11 common pleas in the following classes of cases:

12 (1) Matters prescribed by general rule.

13 (2) The right to public office.

14 (3) Matters where the qualifications, tenure or right to
15 serve, or the manner of service, of any member of the
16 judiciary is drawn in question.

17 (4) Automatic review of sentences as provided by [42
18 Pa.C.S. §§] sections 9546(d) (relating to relief and order)
19 and 9711(h) (relating to review of death sentence).

20 (5) Supersession of a district attorney by an Attorney
21 General or by a court or where the matter relates to the
22 convening, supervision, administration, operation or
23 discharge of an investigating grand jury or otherwise
24 directly affects such a grand jury or any investigation
25 conducted by it.

26 (6) Matters where the right or power of the Commonwealth
27 or any political subdivision to create or issue indebtedness
28 is drawn in direct question.

29 (7) Matters where the court of common pleas has held
30 invalid as repugnant to the Constitution, treaties or laws of

1 the United States, or to the Constitution of this
2 Commonwealth, any treaty or law of the United States or any
3 provision of the Constitution of, or of any statute of, this
4 Commonwealth, or any provision of any home rule charter.

5 (8) Matters where the right to practice law is drawn in
6 direct question.

7 (b) Exception.--The Supreme Court shall not have
8 jurisdiction under subsection (a)(7) of the classes of appeals
9 from the courts of common pleas as are under section 762
10 (relating to appeals from courts of common pleas) within the
11 exclusive jurisdiction of the appellate division of Medical
12 Professional Liability Court.

13 § 724. Allowance of appeals from [Superior and Commonwealth
14 Courts] intermediate appellate courts.

15 (a) General rule.--Except as provided by section 9781(f)
16 (relating to limitation on additional appellate review), final
17 orders of the Superior Court and final orders of the
18 Commonwealth Court not appealable under section 723 (relating to
19 appeals from Commonwealth Court) may be reviewed by the Supreme
20 Court upon allowance of appeal by any two justices of the
21 Supreme Court upon petition of any party to the matter.

22 (a.1) Medical Professional Liability Court appeals.--Final
23 orders of the appellate division of Medical Professional
24 Liability Court may be reviewed by the Supreme Court upon
25 allowance of appeal by any two justices of the Supreme Court
26 upon petition of any party to the matter if the petition is
27 granted within 90 days after it is filed.

28 (a.2) Scope of review.--If the petition shall be granted,
29 the Supreme Court shall have jurisdiction to review the order in
30 the manner provided by section 5105(d)(1) (relating to scope of

1 appeal).

2 (b) Improvident appeals.--If an appeal is improvidently
3 taken to the Supreme Court under section 723 in a case where the
4 proper mode of review is by petition for allowance of appeal
5 under this section, this alone shall not be a ground for
6 dismissal, but the papers whereon the appeal was taken shall be
7 regarded and acted on as a petition for allowance of appeal and
8 as if duly filed at the time the appeal was taken.

9 § 742. Appeals from courts of common pleas.

10 The Superior Court shall have exclusive appellate
11 jurisdiction of all appeals from final orders of the courts of
12 common pleas, regardless of the nature of the controversy or the
13 amount involved, except such classes of appeals as are by any
14 provision of this chapter within the exclusive jurisdiction of
15 the Supreme Court [or], the Commonwealth Court or the appellate
16 division of Medical Professional Liability Court.

17 § 761. Original jurisdiction.

18 (a) General rule.--The Commonwealth Court shall have
19 original jurisdiction of all civil actions or proceedings:

20 (1) Against the Commonwealth government, including any
21 officer thereof, acting in his official capacity, except:

22 (i) actions or proceedings in the nature of
23 applications for a writ of habeas corpus or post-
24 conviction relief not ancillary to proceedings within the
25 appellate jurisdiction of the court;

26 (ii) eminent domain proceedings;

27 (iii) actions or proceedings conducted pursuant to
28 Chapter 85 (relating to matters affecting government
29 units);

30 (iv) actions or proceedings conducted pursuant to

1 [the act of May 20, 1937 (P.L.728, No.193), referred to
2 as the Board of Claims Act; and] 62 Pa.C.S. Ch. 17 Subch.
3 C (relating to Board of Claims);

4 (v) actions or proceedings in the nature of trespass
5 as to which the Commonwealth government formerly enjoyed
6 sovereign or other immunity and actions or proceedings in
7 the nature of assumpsit relating to such actions or
8 proceedings in the nature of trespass[.]; and

9 (vi) matters as are under Subchapter C of Chapter 8
10 (relating to jurisdiction of Medical Professional
11 Liability Court) within the jurisdiction of the Medical
12 Professional Liability Court.

13 (2) By the Commonwealth government, including any
14 officer thereof, acting in his official capacity, except:

15 (i) eminent domain proceedings[.]; and

16 (ii) matters as are under section 832 (relating to
17 original jurisdiction) within the jurisdiction of the
18 Medical Professional Liability Court.

19 [(3) Arising under Article V of the act of May 17, 1921
20 (P.L.789, No.285), known as "The Insurance Department Act of
21 1921."]

22 (4) Original jurisdiction of which is vested in the
23 Commonwealth Court by any unrepealed statute hereafter
24 enacted.

25 * * *

26 § 762. Appeals from courts of common pleas.

27 * * *

28 (b) Exception.--The Commonwealth Court shall not have
29 jurisdiction of such classes of appeals from courts of common
30 pleas as are by [section]:

1 (1) Section 722 (relating to direct appeals from courts
2 of common pleas) within the exclusive jurisdiction of the
3 Supreme Court.

4 (2) Section 782 (relating to appeals from Medical
5 Professional Liability Court original hearing matters) within
6 the exclusive jurisdiction of the appellate division of
7 Medical Professional Liability Court.

8 Section 5. Chapter 7 of Title 42 is amended by adding a
9 subchapter to read:

10 SUBCHAPTER E

11 JURISDICTION OF APPELLATE DIVISION OF

12 MEDICAL PROFESSIONAL LIABILITY COURT

13 Sec.

14 781. Original jurisdiction.

15 782. Appeals from Medical Professional Liability Court original
16 hearing matters.

17 783. Answer of certified questions of law.

18 784. Certification of questions of law.

19 § 781. Original jurisdiction.

20 The appellate division of Medical Professional Liability
21 Court shall have no original jurisdiction, except:

22 (1) in cases of mandamus and prohibition to:

23 (i) the judges of the Medical Professional Liability
24 Court when exercising the original jurisdiction of the
25 Medical Professional Liability Court; or

26 (ii) courts of inferior jurisdiction where such
27 relief is ancillary to matters within the appellate
28 jurisdiction of the division; and

29 (2) that the division, or any member thereof, shall have
30 full power and authority when and as often as there may be

occasion to issue writs of habeas corpus under like
conditions returnable to the said court.

§ 782. Appeals from Medical Professional Liability Court
original hearing matters.

The appellate division of Medical Professional Liability
Court shall have exclusive appellate jurisdiction of all appeals
from final orders of the Medical Professional Liability Court
entered by a single member thereof, regardless of the nature of
the controversy or the amount involved.

§ 783. Answer of certified questions of law.

(a) General rule.--The appellate division of Medical
Professional Liability Court may answer questions of law
certified to it by a United States appellate court or the
highest appellate court or the intermediate appellate court of
any other state or jurisdiction, when requested by the
certifying court, if there are involved in any matter pending
before the certifying court questions of law of this
Commonwealth within the jurisdiction of the appellate division
which may be determinative of the matter in the certifying court
and as to which it appears to the certifying court there is no
controlling precedent in the decisions of the appellate
division.

(b) Contents of certification order.--A certification order
shall set forth:

(1) The questions of law to be answered.

(2) A statement of all facts relevant to the questions
certified and showing fully the nature of the controversy in
which the question arose.

(c) Preparation of certification order.--The certification
order shall be prepared by the certifying court, signed by the

1 judge presiding over the matter and forwarded to the appellate
2 division of Medical Professional Liability Court by the clerk of
3 the certifying court under its official seal. The appellate
4 division may require the original or copies of all or of any
5 portion of the record before the certifying court to be filed
6 with the certification order if, in the opinion of the appellate
7 division, the record or portion thereof may be necessary in
8 answering the questions.

9 (d) Costs of certification.--Fees and costs shall be the
10 same as in appeals docketed before the appellate division and
11 shall be equally divided between the parties unless otherwise
12 ordered by the certifying court in its order of certification.

13 (e) Briefs and argument.--Proceedings in the appellate
14 division under this section shall be governed by Medical
15 Professional Liability Court rules, which may provide
16 specifically for the answering and certification of questions of
17 law under this section.

18 (f) Opinion.--The written opinion of the appellate division
19 stating the law governing the questions certified shall be sent
20 by the clerk under the seal of the appellate division of Medical
21 Professional Liability Court to the certifying court and to the
22 parties. An order adopting a written opinion shall be subject to
23 appeal under section 724(b) (relating to allowance of appeals
24 from intermediate appellate courts).

25 § 784. Certification of questions of law.

26 (a) General rule.--The appellate division of Medical
27 Professional Liability Court, on its own motion or on the
28 application of any party, may order certification of questions
29 of law to a United States appellate court or to the highest
30 appellate court or the intermediate appellate court of any other

1 state or jurisdiction when it appears to the appellate division
2 that:

3 (1) there are involved in any matter pending before the
4 appellate division questions of law of the receiving
5 jurisdiction which may be determinative of the matter in the
6 appellate division; and

7 (2) there is not controlling precedent in the decisions
8 of the appellate courts of the receiving jurisdiction.

9 (b) Law of case.--The certification order may contain an
10 undertaking on behalf of the unified judicial system that the
11 answer to the certified question shall be deemed the law of the
12 case for the purposes of all further proceedings in the courts
13 of this Commonwealth.

14 (c) Procedure.--The procedures for certification from this
15 Commonwealth to the receiving jurisdiction shall be as provided
16 by the laws of the receiving jurisdiction.

17 Section 6. The heading of Article C of Subpart A of Part II
18 of Title 42 is amended to read:

19 ARTICLE C

20 MEDICAL PROFESSIONAL LIABILITY COURT

21 AND COURTS OF COMMON PLEAS

22 Section 7. Article C of Subpart A of Part II of Title 42 is
23 amended by adding a chapter to read:

24 CHAPTER 8

25 ORGANIZATION AND JURISDICTION OF

26 MEDICAL PROFESSIONAL LIABILITY COURT

27 Subchapter

28 A. (Reserved)

29 B. Organization of Medical Professional Liability Court

30 C. Jurisdiction of Medical Professional Liability Court

1 D. Transitional Provisions

2 SUBCHAPTER A

3 (RESERVED)

4 SUBCHAPTER B

5 ORGANIZATION OF MEDICAL PROFESSIONAL

6 LIABILITY COURT

7 Sec.

8 811. Medical Professional Liability Court.

9 812. Powers of Medical Professional Liability Court.

10 813. Seat of court.

11 814. Lien of judgments for money.

12 § 811. Medical Professional Liability Court.

13 There shall be a Medical Professional Liability Court of
14 Pennsylvania which shall consist of 18 judges.

15 § 812. Powers of Medical Professional Liability Court.

16 The Medical Professional Liability Court shall have power to
17 issue, under its judicial seal, every lawful writ and process
18 necessary or suitable for the exercise of its jurisdiction and
19 for the enforcement of any order which it may make, including
20 such writs and process to or to be served or enforced by system
21 and related personnel as the courts of common pleas are
22 authorized by law or usage to issue. The court shall also have
23 all powers of a court of record possessed by the courts of
24 common pleas.

25 § 813. Seat of court.

26 (a) Central filing.--The Medical Professional Liability
27 Court shall maintain offices for the receipt of filings at one
28 or more locations within this Commonwealth as may be prescribed
29 by Medical Professional Liability Court rule. The Medical
30 Professional Liability Court is comprised of three districts as

follows:

(1) The eastern district comprises the counties of Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton and Philadelphia.

(2) The middle district comprises the counties of Adams, Bradford, Cameron, Carbon, Centre, Clinton, Columbia, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lackawanna, Lebanon, Luzerne, Lycoming, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming and York.

(3) The western district comprises the counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington and Westmoreland.

(b) Regular sessions.--The regular sessions of the Medical Professional Liability Court shall be held in the eastern district of Pennsylvania with locations in Media and Scranton, middle district of Pennsylvania with locations in Harrisburg and Williamsport and western district of Pennsylvania with locations in Pittsburgh and Erie.

(c) Other sessions.--Within the limits of available appropriations, special sessions of the Medical Professional Liability Court may be held at such other places from time to time within this Commonwealth as may be necessary for the convenience of parties or witnesses.

(d) Reimbursement.--When regular or other sessions of the Medical Professional Liability Court are held in facilities provided by counties under this section, reimbursement for

actual and reasonable expenses shall be made to the counties
from the Medical Professional Liability Court Fund.
§ 814. Lien of judgments for money.

Any judgment or other order of the Medical Professional
Liability Court for the payment of money shall not be a lien
upon real property in any county until it is entered of record
in the office of the clerk of the court of common pleas of the
county in which the property is situated, or in the office of
the clerk of the branch of the court of common pleas embracing
such county, in the same manner as a judgment transferred from
the court of common pleas of another county.

SUBCHAPTER C

JURISDICTION OF MEDICAL PROFESSIONAL

LIABILITY COURT

Sec.

831. Definitions.

832. Original jurisdiction.

833. Exclusive jurisdiction.

§ 831. Definitions.

The following words and phrases when used in this subchapter
shall have the meanings given to them in this section unless the
context clearly indicates otherwise:

"Health care provider." An individual or health care
facility that is licensed, certified or otherwise authorized to
provide health care under the laws of this Commonwealth. The
term also includes both of the following:

(1) An officer, employee or agent of a health care
provider acting within the scope of the person's duties and
authority.

(2) A legal entity through which one or more health care

1 providers deliver health care, including a professional
2 corporation, a partnership or limited liability company.
3 "Medical professional liability claim." A claim brought by
4 or on behalf of an individual seeking damages for loss sustained
5 by the individual as a result of an injury or wrong to the
6 individual or another individual arising from a health care
7 provider's provision of or failure to provide health care
8 regardless of the theory of liability. A medical professional
9 liability claim includes, but is not limited to, a claim
10 grounded in negligence, informed consent, breach of contract,
11 misrepresentation or fraud.

12 § 832. Original jurisdiction.

13 The Medical Professional Liability Court shall have original
14 jurisdiction of all civil actions or proceedings against a
15 health care provider for all medical professional liability
16 claims.

17 § 833. Exclusive jurisdiction.

18 Except as provided under section 721 (relating to original
19 jurisdiction), the jurisdiction of the Medical Professional
20 Liability Court under section 832 (relating to original
21 jurisdiction) shall be exclusive.

22 SUBCHAPTER D

23 TRANSITIONAL PROVISIONS

24 Sec.

25 841. Organization of court.

26 842. Existing cases unaffected.

27 843. Rules.

28 844. Procurement of juries.

29 845. Filing fees.

30 846. Expiration review.

1 § 841. Organization of court.

2 (a) General rule.--The Medical Professional Liability Court
3 shall meet and organize in the City of Harrisburg. The court
4 shall procure the necessary supplies, equipment and personnel to
5 commence operation and promulgate any necessary rules of court
6 or operating procedures. When the court is organized and ready
7 for the transaction of business, the president judge of the
8 court shall so certify to the Governor, who shall issue a
9 proclamation stating that the court is organized and ready for
10 the transaction of its judicial business.

11 (b) Initial term of office.--The Governor shall proceed to
12 appoint persons to serve as judges of the court for purposes of
13 organizing its affairs. In order to permit the efficient
14 organization of the court, the date of appointment by the
15 Governor shall be deemed to be the date on which the vacancies
16 in the offices of the initial judges of the court filled by the
17 Governor under this subsection occurred, so that the first
18 election of judges of the court shall not be held until the
19 first municipal election following the initial appointment by
20 the Governor.

21 § 842. Existing cases unaffected.

22 A change in jurisdiction effected by amendments to this title
23 or to any other act shall not affect the jurisdiction of any
24 court over any pending matter, but, in the interest of justice,
25 an existing matter may be transferred to the Medical
26 Professional Liability Court.

27 § 843. Rules.

28 (a) Medical Professional Liability Court.--Prior to the
29 commencement of operations, specific rules shall be adopted that
30 will be applicable to original matters heard in Medical

1 Professional Liability Court.

2 (b) Appellate division.--Until otherwise provided by Medical
3 Professional Liability Court rule, the Pennsylvania Rules of
4 Appellate Procedure shall be applicable to matters in the
5 appellate division of Medical Professional Liability Court, and
6 rules of court promulgated by the Medical Professional Liability
7 Court applicable in the appellate division shall be classified
8 under Pa.R.A.P. No.104 (relating to rules of court).

9 § 844. Procurement of juries.

10 (a) Master list of prospective jurors.--At least annually
11 the jury selection commission shall prepare a district-wide
12 master list of prospective jurors for each judicial district.
13 This list shall contain all voter registration lists for each
14 district, which lists may be incorporated by reference, or names
15 from other lists which in the opinion of the commission will
16 provide a number of names of prospective jurors which is equal
17 to or greater than the number of names contained in the voter
18 registration list. The commission may, but shall not be required
19 to, supplement the master list of prospective jurors to include,
20 without being limited to, persons in any of the following
21 categories:

22 (1) Persons listed in telephone directories, city
23 directories, municipal directories and similar directories.

24 (2) Persons who pay taxes or are assessed for taxes
25 imposed by any political subdivisions.

26 (3) Persons in the county participating in any State,
27 county or local program authorized by law and, to the extent
28 such names are available, persons participating in any
29 Federal program authorized by law.

30 (4) Persons who are on school census lists.

1 (5) Any other person whose name does not appear in the
2 master list of prospective jurors and who meets the
3 qualifications for jurors set forth in this chapter and who
4 makes application to the commission to be listed on the
5 master list of prospective jurors.

6 (b) Selection, compensation and maintenance of jurors.--
7 Except as provided under subsection (a) or unless otherwise
8 provided by the Medical Professional Liability Court, the
9 procedures for the selection, compensation and maintenance of
10 juries for service in the Commonwealth Court shall be applicable
11 to the selection, compensation and maintenance of juries in the
12 Medical Professional Liability Court.

13 § 845. Filing fees.

14 Until otherwise provided by Medical Professional Liability
15 Court rule, the fee bill applicable in the Commonwealth Court
16 shall be applicable in the Medical Professional Liability Court.

17 § 846. Expiration review.

18 (a) Reports to General Assembly.--The following reports
19 shall be submitted within 120 days after the expiration of ten
20 years after entry by the Medical Professional Liability Court of
21 its first final order in any action, proceeding or appeal:

22 (1) The Medical Professional Liability Court shall
23 submit to the General Assembly any recommendations for
24 legislation relating to size, structure or operations of the
25 court.

26 (2) The Attorney General shall submit a report to the
27 General Assembly reviewing and commenting upon the operations
28 of the Medical Professional Liability Court and making any
29 recommendations for legislation relating to size, structure
30 or operations of the court.

1 (b) Request for comments.--Appropriate committees of the
2 General Assembly shall request comments from the organized bar
3 and the general public concerning the size, structure and
4 operations of the Medical Professional Liability Court.

5 Section 8. Chapter 21 of Title 42 is amended by adding a
6 subchapter to read:

7 SUBCHAPTER G

8 MEDICAL PROFESSIONAL LIABILITY COURT

9 QUALIFICATIONS COMMISSION

10 Sec.

11 2161. Medical Professional Liability Court Qualifications
12 Commission.

13 2162. Composition of Medical Professional Liability Court
14 Qualifications Commission.

15 2163. Organization.

16 2164. Powers and duties.

17 § 2161. Medical Professional Liability Court Qualifications
18 Commission.

19 (a) General rule.--The Medical Professional Liability Court
20 Qualifications Commission shall consist of 12 residents of this
21 Commonwealth selected as provided under this subchapter.

22 (b) Seal.--The Medical Professional Liability Court
23 Qualifications Commission shall have a seal engraved with its
24 name and such other inscriptions as may be specified by Medical
25 Professional Liability Court rule. A facsimile or preprinted
26 seal may be used for all purposes in lieu of the original seal.

27 (c) Status.--The Medical Professional Liability Court
28 Qualifications Commission shall not be deemed to be an agency
29 for purposes of 65 Pa.C.S. Ch. 7 (relating to open meetings).
30 § 2162. Composition of Medical Professional Liability Court

1 Qualifications Commission.

2 (a) General rule.--The Medical Professional Liability Court
3 Qualifications Commission shall consist of:

4 (1) Three commissioners appointed by the President pro
5 tempore of the Senate.

6 (2) Three commissioners appointed by the Minority Leader
7 of the Senate.

8 (3) Three commissioners appointed by the Speaker of the
9 House of Representatives.

10 (4) Three commissioners appointed by the Minority Leader
11 of the House of Representatives.

12 (b) Qualifications.--Two of the commissioners appointed
13 under each paragraph of subsection (a) shall be members of the
14 bar of the courts of this Commonwealth. The third commissioner
15 appointed in each case shall be a nonlawyer elector.

16 (c) Terms of office.--Except as provided under subsection
17 (e), each commissioner shall be appointed for a four-year term.
18 A commissioner shall not be appointed for more than two
19 successive full terms. An appointment to fill an unexpired term
20 which has fewer than two years remaining shall not be deemed a
21 full term. A vacancy on the commission shall be filled for the
22 balance of the term by appointment made by the person who at the
23 time is the ranking member in the same chamber of the General
24 Assembly and of the same political party as the person who
25 appointed the vacating member of the commission.

26 (d) Restriction on public or political activities.--During a
27 commissioner's term of service, a commissioner shall not hold:

28 (1) A compensated public office or public appointment.

29 (2) Office in any political party or political
30 organization.

1 (e) Transitional provisions.--

2 (1) The initial Medical Professional Liability Court
3 Qualifications Commission provided for under this section
4 shall come into existence upon the effective date of this
5 chapter.

6 (2) The initial members of the Medical Professional
7 Liability Court Qualifications Commission shall serve as
8 follows:

9 (i) the commissioners appointed by the President pro
10 tempore of the Senate, one each for two, three and four
11 years;

12 (ii) the commissioners appointed by the Minority
13 Leader of the Senate, one each for two, three and four
14 years;

15 (iii) the commissioners appointed by the Speaker of
16 the House of Representatives, one each for one, two and
17 three years; and

18 (iv) the commissioners appointed by the Minority
19 Leader of the House of Representatives, one each for one,
20 two and three years.

21 § 2163. Organization.

22 The Medical Professional Liability Court Qualifications
23 Commission shall elect a presiding officer from among its
24 members and shall establish its own rules of procedure. The
25 Medical Professional Liability Court shall furnish staff support
26 as may be necessary for the conduct of the business of the
27 commission. The cost and expense of the commission shall be paid
28 out of the Medical Professional Liability Court Fund established
29 under section 3591 (relating to Medical Professional Liability
30 Court Fund).

1 § 2164. Powers and duties.

2 (a) General rule.--The Medical Professional Liability Court
3 Qualifications Commission shall evaluate the qualifications of
4 all of the following:

5 (1) Applicants seeking election as a judge of the
6 Medical Professional Liability Court who request evaluation
7 of their qualifications under section 3161(c) (relating to
8 election of judges of Medical Professional Liability Court).

9 (2) Applicants seeking appointment by the Governor to a
10 vacancy on the Medical Professional Liability Court under
11 section 3162 (relating to vacancies in office of judge of
12 Medical Professional Liability Court).

13 (3) Judges of the Medical Professional Liability Court
14 who seek retention in office under section 3163 (relating to
15 retention of judges of Medical Professional Liability Court).

16 (b) Rules and regulations.--The commission may adopt rules
17 and regulations as it deems necessary to discharge its duties.

18 (c) Immunity.--A member of the commission shall not be held
19 to have violated any criminal law or to be civilly liable under
20 any law by reason of the performance by the member of any duty,
21 function or activity authorized or required of the commission if
22 the member has exercised due care in his performance. This
23 subsection shall not apply with respect to any action taken by
24 any individual if the individual, in taking the action, was
25 motivated by malice toward any person affected by the action.

26 Section 9. Sections 3131, 3132 and 3153 of Title 42 are
27 amended by adding subsections to read:

28 § 3131. Selection of judicial officers for regular terms.

29 * * *

30 (f) Medical Professional Liability Court.--The judges of the

Medical Professional Liability Court shall be elected in the manner provided under section 3161 (relating to election of judges of Medical Professional Liability Court).

§ 3132. Vacancies in office.

* * *

(e) Medical Professional Liability Court.--Subsections (a) through (d) shall not apply to a vacancy in the office of a judge of the Medical Professional Liability Court. The provisions of section 3162 (relating to vacancies in office of judge of Medical Professional Liability Court) shall apply.

§ 3153. Retention elections after regular term.

* * *

(d) Medical Professional Liability Court.--Except as provided under section 3163 (relating to retention of judges of Medical Professional Liability Court), subsections (a), (b) and (c) shall apply to the judges of the Medical Professional Liability Court.

Section 10. Chapter 31 of Title 42 is amended by adding a subchapter to read:

SUBCHAPTER E

SELECTION AND RETENTION OF JUDGES

OF MEDICAL PROFESSIONAL LIABILITY COURT

Sec.

3161. Election of judges of Medical Professional Liability Court.

3162. Vacancies in office of judge of Medical Professional Liability Court.

3163. Retention of judges of Medical Professional Liability Court.

§ 3161. Election of judges of Medical Professional Liability

1 Court.

2 (a) General rule.--Judges of the Medical Professional
3 Liability Court shall be elected for a regular term of office at
4 the municipal election next preceding the commencement of their
5 respective regular terms of office by the electors of this
6 Commonwealth.

7 (b) Special procedures.--The judges of the Medical
8 Professional Liability Court shall be elected as provided in the
9 act of June 3, 1937 (P.L.1333, No.320), known as the
10 Pennsylvania Election Code, except that:

11 (1) The following dates prescribed by the Pennsylvania
12 Election Code shall not apply:

13 (i) The date by which the Secretary of the
14 Commonwealth is to notify the county boards of election
15 of the offices for which candidates are to be nominated
16 at the ensuing primary.

17 (ii) The date by which the county boards of election
18 are to publish notice of public offices for which
19 nominations are to be made.

20 (2) The date before and after which nomination petitions
21 and nomination papers may be circulated shall be 60 days
22 prior to the dates that would otherwise apply in the absence
23 of this section.

24 (3) Candidates for nomination who desire to have their
25 qualifications evaluated by the Medical Professional
26 Liability Court Qualifications Commission shall proceed as
27 provided in subsection (c). Candidates who do not desire to
28 have their qualifications evaluated by the commission shall
29 not be subject to subsection (c) and shall proceed instead in
30 the manner provided in the Pennsylvania Election Code.

1 (4) Candidates for nomination shall present a nominating
2 petition containing valid signatures of at least 1,000
3 registered and enrolled members of the proper party,
4 including at least 100 members from each of at least five
5 counties.

6 (5) Each person filing a nomination petition or
7 nomination papers for a candidate shall pay a filing fee, at
8 the time of filing either with the commission or the
9 Department of State, as the case may be, of \$200. A
10 nomination petition or nomination papers shall not be
11 accepted or filed unless and until the filing fee is paid in
12 cash or by certified or cashier's check or money order made
13 payable to the Commonwealth of Pennsylvania. All moneys paid
14 on account of filing fees for candidates for nomination for
15 the office of judge of the Medical Professional Liability
16 Court shall be transmitted to the State Treasurer and shall
17 become part of the Medical Professional Liability Court Fund.

18 (6) (Reserved).

19 (7) On all official ballots except absentee ballots, the
20 names of all candidates from the same political party for
21 nomination or election shall be rotated from one precinct to
22 another. On absentee ballots the names of those candidates
23 shall be so alternated that each name shall appear, insofar
24 as reasonably possible, substantially an equal number of
25 times at the beginning, at the end and at each intermediate
26 place, if any, of the group of candidates from the same
27 political party.

28 (c) Evaluation of qualifications.--Candidates who desire to
29 have their qualifications evaluated by the commission shall
30 proceed in the following fashion:

1 (1) Nomination petitions and nomination papers shall be
2 filed with the commission instead of the Department of State
3 and must be filed with the commission no later than 60 days
4 prior to the date for filing nomination petitions and
5 nomination papers generally.

6 (2) The affidavit of candidates submitted to the
7 commission shall be in the form prescribed by the
8 Pennsylvania Election Code, with additional information as
9 may be required by the rules and regulations of the
10 commission.

11 (3) The commission shall evaluate the qualifications of
12 each candidate in accordance with such criteria and measures
13 of qualification as the commission promulgates in regulations
14 and shall assign each candidate a rating of one of the
15 following:

16 (i) Extremely well qualified.

17 (ii) Well qualified.

18 (iii) Qualified.

19 (iv) Unqualified.

20 (4) The commission shall publish in the Pennsylvania
21 Bulletin a report containing the rating assigned to each
22 candidate by the commission. The report of the commission
23 shall be published not later than the date the nomination
24 petition or nomination papers of the candidate would have
25 been due to be filed absent the provisions of this
26 subsection. The report shall include the nomination petition
27 or nomination papers and the affidavit of the candidate.

28 (5) A determination by the commission to report a
29 candidate as unqualified may be challenged in the same manner
30 as a contested nomination of the second class under Article

1 XVII(b) of the Pennsylvania Election Code, except that the
2 petition commencing the proceeding shall be filed by the
3 candidate himself within 20 days after the last day for
4 filing reports of the commission with the Department of
5 State. A determination by the commission to report a
6 candidate as extremely well qualified, well qualified or
7 qualified shall not be subject to challenge.

8 § 3162. Vacancies in office of judge of Medical Professional
9 Liability Court.

10 (a) General rule.--A vacancy in the office of judge of the
11 Medical Professional Liability Court shall be filled by
12 appointment by the Governor in the manner provided in this
13 section.

14 (b) Advertisement of vacancy.--Whenever a vacancy occurs in
15 the office of judge of the Medical Professional Liability Court,
16 the Medical Professional Liability Court Qualifications
17 Commission shall publicly advertise the vacancy and solicit
18 applications. When it is known that a vacancy will occur in the
19 future on a date certain, the process under this section may
20 begin 90 days prior to that date.

21 (c) Preparation of list.--From the applications received,
22 the commission shall prepare and submit to the Governor a list
23 of not more than seven persons who are qualified to hold the
24 office of judge of the Medical Professional Liability Court.
25 When more than one vacancy exists, the maximum number of persons
26 who may be included on the list submitted to the Governor shall
27 be increased by two persons for each additional vacancy. The
28 list shall be submitted to the Governor no later than 60 days
29 after the vacancy occurs. Immediately following submission of
30 the list to the Governor, the list shall be filed with the

Senate and made public by the commission. The commission shall maintain the confidentiality of the information on the list but disclose the names of applicants whose names do not appear on the list and applicants who have not requested that their names remain confidential.

(d) Vote required for commission endorsement.--The list submitted to the Governor shall contain the names of those persons who receive affirmative votes from eight or more commissioners, except that the number of persons shall not exceed the limitations imposed under subsection (c).

(e) Nomination to Senate.--The Governor shall nominate from the list one person for each vacancy with respect to which a list of recommended applicants has been submitted. If the Governor does not nominate, within 30 days of receipt of the list, as many of the persons recommended as there are vacancies to be filled, the first person or persons named on the list in the order determined by the commission who have not been nominated by the Governor, up to the number of vacancies the Governor has failed to make nominations for, shall be deemed nominated.

(f) Action by Senate.--Senate action on a nomination to fill a vacancy in the office of judge of the Medical Professional Liability Court shall be in accordance with section 8 of Article IV of the Constitution of Pennsylvania.

(g) Substitute nominations.--The Governor may make a substitute nomination from the list within 30 days after receiving notification from the Senate of the rejection of a prior nominee. If the Governor does not make a substitute nomination under this subsection, the ranking person on the list who has not been rejected by the Senate shall be deemed

1 nominated as a substitute.

2 (h) Rejection of all candidates.--If all of the persons on a
3 list have been nominated and rejected by the Senate, the Senate
4 shall so notify the commission. The commission shall meet within
5 ten days of receipt of notification by the Senate and publicly
6 select by lot one person from the list. The person selected
7 shall thereupon be deemed appointed and confirmed to the vacant
8 position and shall be so commissioned by the Governor.

9 § 3163. Retention of judges of Medical Professional Liability
10 Court.

11 At the expiration of the term of office of a judge of the
12 Medical Professional Liability Court, the judge shall be subject
13 to retention in office and retirement as provided under this
14 part except that whenever a judge of the Medical Professional
15 Liability Court files a declaration of candidacy for retention
16 election, the Medical Professional Liability Court
17 Qualifications Commission shall review the judge's judicial
18 performance and shall, on or before the first Monday of April of
19 the year of the retention election, report to the Department of
20 State whether or not in the opinion of the commission the judge
21 is qualified to be retained in office.

22 Section 11. Title 42 is amended by adding a section to read:
23 § 3582. Salaries of judges of Medical Professional Liability
24 Court.

25 (a) Salaries.--The annual salary of the President Judge of
26 the Medical Professional Liability Court shall be \$104,500. The
27 annual salary of each of the other judges of the Medical
28 Professional Liability Court shall be \$104,000.

29 (b) Annual cost-of-living adjustment.--Beginning January 1,
30 2008, and each January 1 thereafter, the annual salaries under

this section shall be increased by the percentage change in the
Consumer Price Index for All Urban Consumers (CPI-U) for the
Pennsylvania, New Jersey, Delaware and Maryland area for the
most recent 12-month period for which figures have been
officially reported by the Department of Labor, Bureau of Labor
Statistics, immediately prior to the date the adjustment is due
to take effect. The percentage increase and salary amounts shall
be determined prior to the annual effective date of the
adjustment by the Supreme Court and shall be published in the
Pennsylvania Bulletin by the Court Administrator of Pennsylvania
within 20 days of the date the determination is made.

Section 12. Chapter 35 of Title 42 is amended by adding a
subchapter to read:

SUBCHAPTER G

MEDICAL PROFESSIONAL LIABILITY COURT FUND

Sec.

3591. Medical Professional Liability Court Fund.

3592. Receipts and other credits.

3593. Payments and other debits.

§ 3591. Medical Professional Liability Court Fund.

There shall be established in the State Treasury a special
operating fund to be known as the Medical Professional Liability
Court Fund. Debits and credits shall be made to that fund under
this subchapter. The operating and capital expenses of the
Medical Professional Liability Court shall be paid solely from
the Medical Professional Liability Court Fund.

§ 3592. Receipts and other credits.

(a) General rule.--There shall be paid or credited to the
Medical Professional Liability Court Fund:

(1) Amounts appropriated to the Medical Professional

1 Liability Court in the manner provided by law.

2 (2) The following surcharges, which are hereby imposed:

3 (i) A surcharge upon the health care facility
4 licensure application and renewal fees of the Department
5 of Health under section 807(b) of the act of July 19,
6 1979 (P.L.130, No.48), known as the Health Care
7 Facilities Act, in the amount of 10% of each fee.

8 (ii) A surcharge upon the civil penalties collected
9 by the Department of Health under section 817(b) of the
10 Health Care Facilities Act, in the amount of 25% of each
11 fee.

12 (iii) A surcharge upon the licensing, examination,
13 registration, certificates and other fees of all health
14 care-related professionals of the Bureau of Professional
15 and Occupational Affairs of the Department of State, in
16 the amount of 10% of each fee.

17 (3) Amounts received by the Commonwealth on account of
18 the operation of the Medical Professional Liability Court.
19 Fees and charges of the Medical Professional Liability Court
20 shall be fixed by the governing authority of the Medical
21 Professional Liability Court with a view initially to the
22 operation of the Medical Professional Liability Court on a
23 self-sustaining basis to the extent feasible and eventually
24 to the elimination of the surcharges under paragraph (2)(ii)
25 and (iii) and the reduction of the surcharge under paragraph
26 (2)(i).

27 (b) Money paid into court.--Money paid into court shall not
28 be credited to the Medical Professional Liability Court Fund
29 except to the extent that the amounts constitute an allowance
30 due a public officer upon the amount levied under an execution.

1 § 3593. Payments and other debits.

2 There shall be disbursed from or debited to the Medical
3 Professional Liability Court Fund amounts payable by the
4 Commonwealth on account of the operation of the Medical
5 Professional Liability Court.

6 Section 13. Sections 5105(b) and 5571(a) of Title 42 are
7 amended to read:

8 § 5105. Right to appellate review.

9 * * *

10 (b) Successive appeals.--

11 (1) Except as otherwise provided in this subsection, the
12 rights conferred by subsection (a) are cumulative, so that a
13 litigant may as a matter of right cause a final order of any
14 tribunal in any matter which itself constitutes an appeal to
15 such tribunal, to be further reviewed by the court having
16 jurisdiction of appeals from such tribunal. Except as
17 provided in section 723 (relating to appeals from [the]
18 Commonwealth Court) there shall be no right of appeal from
19 the Superior Court or the Commonwealth Court to the Supreme
20 Court under this section or otherwise.

21 (2) There shall be a right of appeal in all cases from
22 the Medical Professional Liability Court to its appellate
23 division, which shall constitute a separate court for the
24 purposes of section 9 of Article V of the Constitution of
25 Pennsylvania. Except as provided under section 724(b)
26 (relating to allowance of appeals from intermediate appellate
27 courts), there shall be no right of appeal from the Medical
28 Professional Liability Court or the appellate division of the
29 Medical Professional Liability Court to the Supreme Court
30 under this section or any other provision of law.

1 * * *

2 § 5571. Appeals generally.

3 (a) General rule.--The time for filing an appeal, a petition
4 for allowance of appeal, a petition for permission to appeal or
5 a petition for review of a quasi-judicial order, in the Supreme
6 Court, the Superior Court [or], the Commonwealth Court or the
7 Medical Professional Liability Court shall be governed by
8 general rules. No other provision of this subchapter shall be
9 applicable to matters subject to this subsection.

10 * * *

11 Section 14. This act shall take effect in 30 days.