

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 172 Session of 2009

INTRODUCED BY GODSHALL, BARRAR, BELFANTI, BEYER, BOYD, EVERETT,
FAIRCHILD, KILLION, MUSTIO, O'NEILL, PETRI, REED, ROSS,
SAYLOR, DENLINGER AND GINGRICH, FEBRUARY 2, 2009

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 2, 2009

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 intermediate appellate courts, for appeals to Superior Court
10 from courts of common pleas, for original jurisdiction of the
11 Commonwealth Court and for appeals to the Commonwealth Court
12 from courts of common pleas; providing for the jurisdiction
13 of the appellate division of Medical Professional Liability
14 Court and for the organization and jurisdiction of the
15 Medical Professional Liability Court; establishing the
16 Medical Professional Liability Court Qualifications
17 Commission and prescribing its powers and duties; further
18 providing for selection of judicial officers, for vacancies
19 in judicial offices and for retention election of judicial
20 officers; providing for selection and retention of judges of
21 the Medical Professional Liability Court and for salaries of
22 judges of the Medical Professional Liability Court;
23 establishing the Medical Professional Liability Court Fund
24 and providing for receipts and payments; and further
25 providing for right to appellate review and for appeals
26 generally.

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

29 Section 1. The definition of "appellate court" in section

1 102 of Title 42 of the Pennsylvania Consolidated Statutes is
2 amended and the section is amended by adding definitions to
3 read:

4 § 102. Definitions.

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

10 * * *

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

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

18 * * *

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

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

24 * * *

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

28 * * *

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

30 § 301. Unified judicial system.

1 The judicial power of the Commonwealth shall be vested in a
2 unified judicial system consisting of the:

3 (1) Supreme Court.

4 (2) Superior Court.

5 (3) Commonwealth Court.

6 (4) Medical Professional Liability Court.

7 [(4)] (5) Courts of common pleas.

8 [(5)] (6) Community courts.

9 [(6)] (7) Philadelphia Municipal Court.

10 [(7)] (8) Pittsburgh Magistrates Court.

11 [(8)] (9) Traffic Court of Philadelphia.

12 [(9)] (10) Magisterial district judges.

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

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

17 SUBCHAPTER D

18 APPELLATE DIVISION OF MEDICAL PROFESSIONAL

19 LIABILITY COURT OF PENNSYLVANIA

20 Sec.

21 581. Appellate division of Medical Professional Liability
22 Court.

23 582. Powers of appellate division.

24 583. Seat of appellate division.

25 § 581. Appellate division of Medical Professional Liability
26 Court.

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

30 (b) Panels and en banc.--When reviewing orders of the

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

7 § 582. Powers of appellate division.

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

12 § 583. Seat of appellate division.

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

17 Section 4. Sections 705, 707, 722, 724, 742, 761(a) and
18 762(b) of Title 42 are amended to read:

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

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

28 § 707. Lien of judgments for money.

29 Any judgment or other order of the Supreme Court, the
30 Superior Court [or], the Commonwealth Court or the appellate

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

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

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

13 (1) Matters prescribed by general rule.

14 (2) The right to public office.

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

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

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

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

30 (7) Matters where the court of common pleas has held

1 invalid as repugnant to the Constitution, treaties or laws of
2 the United States, or to the Constitution of this
3 Commonwealth, any treaty or law of the United States or any
4 provision of the Constitution of, or of any statute of, this
5 Commonwealth, or any provision of any home rule charter.

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

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

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

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

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

29 (a.2) Scope of review.--If the petition shall be granted,
30 the Supreme Court shall have jurisdiction to review the order in

1 the manner provided by section 5105(d)(1) (relating to scope of
2 appeal).

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

10 § 742. Appeals from courts of common pleas.

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

18 § 761. Original jurisdiction.

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

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

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

27 (ii) eminent domain proceedings;

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

(iv) actions or proceedings conducted pursuant to [the act of May 20, 1937 (P.L.728, No.193), referred to as the Board of Claims Act; and] 62 Pa.C.S. Ch. 17 Subch. C (relating to Board of Claims);

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

(vi) such matters as are by Subchapter C of Chapter 8 (relating to jurisdiction of Medical Professional Liability Court) within the jurisdiction of the Medical Professional Liability Court.

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

(i) eminent domain proceedings[.]; and

(ii) such matters as are by section 832 (relating to original jurisdiction) within the jurisdiction of the Medical Professional Liability Court.

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

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

* * *

§ 762. Appeals from courts of common pleas.

* * *

(b) Exception.--The Commonwealth Court shall not have jurisdiction of such classes of appeals from courts of common

pleas as are by [section]:

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

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

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

SUBCHAPTER E

JURISDICTION OF APPELLATE DIVISION OF

MEDICAL PROFESSIONAL LIABILITY COURT

Sec.

781. Original jurisdiction.

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

783. Answer of certified questions of law.

784. Certification of questions of law.

§ 781. Original jurisdiction.

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

(1) in cases of mandamus and prohibition to:

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

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

(2) that the division, or any member thereof, shall have

1 full power and authority when and as often as there may be
2 occasion to issue writs of habeas corpus under like
3 conditions returnable to the said court.

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

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

11 § 783. Answer of certified questions of law.

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

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

26 (1) The questions of law to be answered.

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

30 (c) Preparation of certification order.--The certification

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

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

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

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

§ 784. Certification of questions of law.

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

1 appellate court or the intermediate appellate court of any other
2 state or jurisdiction when it appears to the appellate division
3 that:

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

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

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

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

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

20 ARTICLE C

21 MEDICAL PROFESSIONAL LIABILITY COURT

22 AND COURTS OF COMMON PLEAS

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

25 CHAPTER 8

26 ORGANIZATION AND JURISDICTION OF

27 MEDICAL PROFESSIONAL LIABILITY COURT

28 Subchapter

29 A. (Reserved)

30 B. Organization of Medical Professional Liability Court

1 C. Jurisdiction of Medical Professional Liability Court

2 D. Transitional Provisions

3 SUBCHAPTER A

4 (RESERVED)

5 SUBCHAPTER B

6 ORGANIZATION OF MEDICAL PROFESSIONAL

7 LIABILITY COURT

8 Sec.

9 811. Medical Professional Liability Court.

10 812. Powers of Medical Professional Liability Court.

11 813. Seat of court.

12 814. Lien of judgments for money.

13 § 811. Medical Professional Liability Court.

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

16 § 812. Powers of Medical Professional Liability Court.

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

26 § 813. Seat of court.

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

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.

1 (2) A legal entity through which one or more health care
2 providers deliver health care, including, but not limited to,
3 a professional corporation, a partnership or limited
4 liability company.

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

14 § 832. Original jurisdiction.

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

19 § 833. Exclusive jurisdiction.

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

24 SUBCHAPTER D

25 TRANSITIONAL PROVISIONS

26 Sec.

27 841. Organization of court.

28 842. Existing cases unaffected.

29 843. Rules.

30 844. Procurement of juries.

1 845. Filing fees.

2 846. Expiration review.

3 § 841. Organization of court.

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

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

23 § 842. Existing cases unaffected.

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

29 § 843. Rules.

30 (a) Medical Professional Liability Court.--Prior to the

commencement of operations, specific rules shall be adopted that
will be applicable to original matters heard in Medical
Professional Liability Court.

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

§ 844. Procurement of juries.

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

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

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

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

1 Federal program authorized by law.

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

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

8 (b) Selection, compensation and maintenance of jurors.--

9 Except as provided in subsection (a) or unless otherwise
10 provided by the Medical Professional Liability Court, the
11 procedures for the selection, compensation and maintenance of
12 juries for service in the Commonwealth Court shall be applicable
13 to the selection, compensation and maintenance of juries in the
14 Medical Professional Liability Court.

15 § 845. Filing fees.

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

19 § 846. Expiration review.

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

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

28 (2) The Attorney General shall submit a report to the
29 General Assembly reviewing and commenting upon the operations
30 of the Medical Professional Liability Court and making any

1 recommendations for legislation relating to size, structure
2 or operations of the court.

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

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

9 SUBCHAPTER G

10 MEDICAL PROFESSIONAL LIABILITY COURT

11 QUALIFICATIONS COMMISSION

12 Sec.

13 2161. Medical Professional Liability Court Qualifications
14 Commission.

15 2162. Composition of Medical Professional Liability Court
16 Qualifications Commission.

17 2163. Organization.

18 2164. Powers and duties.

19 § 2161. Medical Professional Liability Court Qualifications
20 Commission.

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

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

29 (c) Status.--The Medical Professional Liability Court
30 Qualifications Commission shall not be deemed to be an agency

for purposes of 65 Pa.C.S. Ch. 7 (relating to open meetings).
§ 2162. Composition of Medical Professional Liability Court
Qualifications Commission.

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

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

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

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

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

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

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

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

(1) A compensated public office or public appointment.

1 (2) Office in any political party or political
2 organization.

3 (e) Transitional provisions.--

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

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

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

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

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

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

22 § 2163. Organization.

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

1 Liability Court Fund).

2 § 2164. Powers and duties.

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

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

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

15 (3) Judges of the Medical Professional Liability Court
16 who seek retention in office pursuant to section 3163
17 (relating to retention of judges of Medical Professional
18 Liability Court).

19 (b) Rules and regulations.--The commission may adopt such
20 rules and regulations as it deems necessary to discharge its
21 duties.

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

30 Section 9. Sections 3131, 3132 and 3153 of Title 42 are

1 amended by adding subsections to read:

2 § 3131. Selection of judicial officers for regular terms.

3 * * *

4 (f) Medical Professional Liability Court.--The judges of the
5 Medical Professional Liability Court shall be elected in the
6 manner provided in section 3161 (relating to election of judges
7 of Medical Professional Liability Court).

8 § 3132. Vacancies in office.

9 * * *

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

15 § 3153. Retention elections after regular term.

16 * * *

17 (d) Medical Professional Liability Court.--Except as
18 provided in section 3163 (relating to retention of judges of
19 Medical Professional Liability Court), subsections (a) through
20 (c) shall apply to the judges of the Medical Professional
21 Liability Court.

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

24 SUBCHAPTER E

25 SELECTION AND RETENTION OF JUDGES

26 OF MEDICAL PROFESSIONAL LIABILITY COURT

27 Sec.

28 3161. Election of judges of Medical Professional Liability
29 Court.

30 3162. Vacancies in office of judge of Medical Professional

1 Liability Court.

2 3163. Retention of judges of Medical Professional Liability
3 Court.

4 § 3161. Election of judges of Medical Professional Liability
5 Court.

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

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

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

17 (i) The date by which the Secretary of the
18 Commonwealth is to notify the county boards of election
19 of the offices for which candidates are to be nominated
20 at the ensuing primary.

21 (ii) The date by which the county boards of election
22 are to publish notice of public offices for which
23 nominations are to be made.

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

28 (3) Candidates for nomination who desire to have their
29 qualifications evaluated by the Medical Professional
30 Liability Court Qualifications Commission shall proceed as

1 provided in subsection (c). Candidates who do not desire to
2 have their qualifications evaluated by the commission shall
3 not be subject to subsection (c) and shall proceed instead in
4 the manner provided in the Pennsylvania Election Code.

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

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

22 (6) (Reserved).

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

1 political party.

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

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

10 (2) The affidavit of candidates submitted to the
11 commission shall be in the form prescribed by the
12 Pennsylvania Election Code, with such additional information
13 as may be required by the rules and regulations of the
14 commission.

15 (3) The commission shall evaluate the qualifications of
16 each candidate in accordance with such criteria and measures
17 of qualification as the commission promulgates in regulations
18 and shall assign each candidate a rating of one of the
19 following:

20 (i) Extremely well qualified.

21 (ii) Well qualified.

22 (iii) Qualified.

23 (iv) Unqualified.

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

1 or nomination papers and the affidavit of the candidate.

2 (5) A determination by the commission to report a
3 candidate as unqualified may be challenged in the same manner
4 as a contested nomination of the second class under Article
5 XVII(b) of the Pennsylvania Election Code, except that the
6 petition commencing the proceeding shall be filed by the
7 candidate himself within 20 days after the last day for
8 filing reports of the commission with the Department of
9 State. A determination by the commission to report a
10 candidate as extremely well qualified, well qualified or
11 qualified shall not be subject to challenge.

12 § 3162. Vacancies in office of judge of Medical Professional
13 Liability Court.

14 (a) General rule.--A vacancy in the office of judge of the
15 Medical Professional Liability Court shall be filled by
16 appointment by the Governor in the manner provided in this
17 section.

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

25 (c) Preparation of list.--From the applications received,
26 the commission shall prepare and submit to the Governor a list
27 of not more than seven persons who are qualified to hold the
28 office of judge of the Medical Professional Liability Court.
29 When more than one vacancy exists, the maximum number of persons
30 who may be included on the list submitted to the Governor shall

1 be increased by two persons for each additional vacancy. The
2 list shall be submitted to the Governor no later than 60 days
3 after the vacancy occurs. Immediately following submission of
4 the list to the Governor, the list shall be filed with the
5 Senate and made public by the commission. The commission shall
6 maintain the confidentiality of the information on the list but
7 disclose the names of applicants whose names do not appear on
8 the list and applicants who have not requested that their names
9 remain confidential.

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

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

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

29 (g) Substitute nominations.--The Governor may make a
30 substitute nomination from the list within 30 days after

1 receiving notification from the Senate of the rejection of a
2 prior nominee; otherwise, the ranking person on the list who has
3 not been rejected by the Senate shall be deemed nominated as a
4 substitute.

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

12 § 3163. Retention of judges of Medical Professional Liability
13 Court.

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

25 Section 11. Title 42 is amended by adding a section to read:

26 § 3582. Salaries of judges of Medical Professional Liability
27 Court.

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

1 Professional Liability Court shall be \$104,000.

2 (b) Annual cost-of-living adjustment.--Beginning January 1,
3 2008, and each January 1 thereafter, the annual salaries under
4 this section shall be increased by the percentage change in the
5 Consumer Price Index for All Urban Consumers (CPI-U) for the
6 Pennsylvania, New Jersey, Delaware and Maryland area for the
7 most recent 12-month period for which figures have been
8 officially reported by the Department of Labor, Bureau of Labor
9 Statistics, immediately prior to the date the adjustment is due
10 to take effect. The percentage increase and salary amounts shall
11 be determined prior to the annual effective date of the
12 adjustment by the Supreme Court and shall be published in the
13 Pennsylvania Bulletin by the Court Administrator of Pennsylvania
14 within 20 days of the date the determination is made.

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

17 SUBCHAPTER G

18 MEDICAL PROFESSIONAL LIABILITY COURT FUND

19 Sec.

20 3591. Medical Professional Liability Court Fund.

21 3592. Receipts and other credits.

22 3593. Payments and other debits.

23 § 3591. Medical Professional Liability Court Fund.

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

30 § 3592. Receipts and other credits.

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

3 (1) Amounts appropriated to the Medical Professional
4 Liability Court in the manner provided by law.

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

6 (i) A surcharge upon the health care facility
7 licensure application and renewal fees of the Department
8 of Health under section 807(b) of the act of July 19,
9 1979 (P.L.130, No.48), known as the Health Care
10 Facilities Act, in the amount of 10% of each such fee.

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

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

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

30 (b) Money paid into court.--Money paid into court shall not

1 be credited to the Medical Professional Liability Court Fund
2 except to the extent that the amounts constitute an allowance
3 due a public officer upon the amount levied under an execution.
4 § 3593. Payments and other debits.

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

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

11 § 5105. Right to appellate review.

12 * * *

13 (b) Successive appeals.--

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

24 (2) There shall be a right of appeal in all cases from
25 the Medical Professional Liability Court to its appellate
26 division, which shall constitute a separate court for the
27 purposes of section 9 of Article V of the Constitution of
28 Pennsylvania, but, except as provided in section 724(b)
29 (relating to allowance of appeals from intermediate appellate
30 courts), there shall be no right of appeal from the Medical

1 Professional Liability Court or the appellate division of the
2 Medical Professional Liability Court to the Supreme Court
3 under this section or otherwise.

4 * * *

5 § 5571. Appeals generally.

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

13 * * *

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