

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 601 Session of 2017

INTRODUCED BY RAFFERTY AND VULAKOVICH, APRIL 13, 2017

REFERRED TO JUDICIARY, APRIL 13, 2017

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
 2 Pennsylvania Consolidated Statutes, in general provisions,
 3 further providing for definitions; in general structure and
 4 powers, further providing for unified judicial system; in
 5 organization of appellate courts, providing for appellate
 6 division of the Medical Professional Liability Court of
 7 Pennsylvania; in jurisdiction of appellate courts, further
 8 providing for transfers between intermediate appellate
 9 courts, for lien of judgments for money, for direct appeals
 10 of courts of common pleas, for allowance of appeals from
 11 Superior and Commonwealth Courts, for appeals from courts of
 12 common pleas, for original jurisdiction and for appeals from
 13 courts of common pleas and providing for jurisdiction of
 14 appellate division of Medical Professional Liability Court;
 15 providing for organization and jurisdiction of the Medical
 16 Professional Liability Court of Pennsylvania; in judicial
 17 boards and commissions, providing for Medical Professional
 18 Liability Court Qualifications Commission; in selection and
 19 retention of judicial officers, further providing for
 20 selection of judicial officers for regular terms, for
 21 vacancies in office and for retention elections after regular
 22 term and providing for selection and retention of judges of
 23 the Medical Professional Liability Court; in budget and
 24 finance, providing for salaries judges of Medical
 25 Professional Liability Court and for Medical Professional
 26 Liability Court Fund; in preliminary provisions relating to
 27 actions, proceedings and other matters generally, further
 28 providing for right to appellate review; in limitation of
 29 time, further providing for appeals generally; and making a
 30 conforming change.

31 The General Assembly of the Commonwealth of Pennsylvania
 32 hereby enacts as follows:

1 Section 1. The definition of "appellate court" in section
2 102 of Title 42 of the Pennsylvania Consolidated Statutes is
3 amended and the section is amended by adding definitions to
4 read:

5 § 102. Definitions.

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

11 * * *

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

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

19 * * *

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

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

25 * * *

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

29 * * *

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

1 § 301. Unified judicial system.

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

4 (1) Supreme Court.

5 (2) Superior Court.

6 (3) Commonwealth Court.

7 (3.1) Medical Professional Liability Court.

8 (4) Courts of common pleas.

9 (5) Community courts.

10 (6) Philadelphia Municipal Court.

11 (7) Pittsburgh Magistrates Court.

12 (8) Traffic Court of Philadelphia.

13 (9) Magisterial district judges.

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

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

18 SUBCHAPTER D

19 APPELLATE DIVISION OF THE

20 MEDICAL PROFESSIONAL LIABILITY COURT OF PENNSYLVANIA

21 Sec.

22 581. Appellate division of the Medical Professional Liability
23 Court.

24 582. Powers of appellate division.

25 583. Seat of appellate division.

26 § 581. Appellate division of the Medical Professional Liability
27 Court.

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

1 service.

2 (b) Panels and en banc.--When reviewing orders of the
3 Medical Professional Liability Court, the appellate division
4 shall sit in panels, and no member of the appellate division
5 shall participate as a member of a panel in the judicial review
6 of an order or other action in which the person participated as
7 a matter of original jurisdiction. A decision of a panel may be
8 reviewed by the division en banc.

9 § 582. Powers of appellate division.

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

14 § 583. Seat of appellate division.

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

19 Section 4. Sections 705, 707, 722, 724, 742, 761(a) and
20 762(b) of Title 42 are amended to read:

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

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

30 § 707. Lien of judgments for money.

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

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

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

15 (1) Matters prescribed by general rule.

16 (2) The right to public office.

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

20 (4) Automatic review of sentences as provided by [42
21 Pa.C.S. §§] sections 9546(d) (relating to relief and order)
22 and 9711(h) (relating to [review of death sentence]
23 sentencing procedure for murder of the first degree).

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

30 (6) Matters where the right or power of the Commonwealth

1 or any political subdivision to create or issue indebtedness
2 is drawn in direct question.

3 (7) Matters where the court of common pleas has held
4 invalid as repugnant to the Constitution, treaties or laws of
5 the United States, or to the Constitution of this
6 Commonwealth, any treaty or law of the United States or any
7 provision of the Constitution of, or of any statute of, this
8 Commonwealth, or any provision of any home rule charter.

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

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

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

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

26 (a.1) Medical Professional Liability Court appeals.--Final
27 orders of the appellate division of the Medical Professional
28 Liability Court may be reviewed by the Supreme Court upon
29 allowance of appeal by any two justices of the Supreme Court
30 upon petition of a party to the matter if the petition is

1 granted within 90 days after it is filed.

2 (a.2) Scope of review.--If the petition shall be granted,
3 the Supreme Court shall have jurisdiction to review the order in
4 the manner provided by section 5105(d)(1) (relating to [scope of
5 appeal] right to appellate review).

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

13 § 742. Appeals from courts of common pleas.

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

21 § 761. Original jurisdiction.

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

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

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

30 (ii) eminent domain proceedings;

1 (iii) actions or proceedings conducted pursuant to
2 Chapter 85 (relating to matters affecting government
3 units);

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

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

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

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

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

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

23 (3) [Arising under Article V of the act of May 17, 1921
24 (P.L.789, No.285), known as "The Insurance Department Act of
25 1921."] (Reserved).

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

29 * * *

30 § 762. Appeals from courts of common pleas.

1 * * *

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

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

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

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

14 SUBCHAPTER E

15 JURISDICTION OF APPELLATE DIVISION OF

16 MEDICAL PROFESSIONAL LIABILITY COURT

17 Sec.

18 781. Original jurisdiction.

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

21 783. Answer of certified questions of law.

22 784. Certification of questions of law.

23 § 781. Original jurisdiction.

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

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

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

30 (ii) courts of inferior jurisdiction where relief is

1 ancillary to matters within the appellate jurisdiction of
2 the division; and

3 (2) that the division, or any member thereof, shall have
4 full power and authority when and as often as there may be
5 occasion to issue writs of habeas corpus under like
6 conditions returnable to the court.

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

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

14 § 783. Answer of certified questions of law.

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

26 (b) Contents of certification order.--A certification order
27 shall provide the following:

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

29 (2) A statement of all facts relevant to the questions
30 certified and showing fully the nature of the controversy in

1 which the question arose.

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

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

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

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

28 § 784. Certification of questions of law.

29 (a) General rule.--The appellate division of the Medical
30 Professional Liability Court, on its own motion or on the

1 application of any party, may order certification of questions
2 of law to a United States appellate court or to the highest
3 appellate court or the intermediate appellate court of any other
4 state or jurisdiction, when it appears to the appellate division
5 that:

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

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

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

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

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

22 ARTICLE C

23 MEDICAL PROFESSIONAL LIABILITY COURT

24 AND COURTS OF COMMON PLEAS

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

27 CHAPTER 8

28 ORGANIZATION AND JURISDICTION OF THE

29 MEDICAL PROFESSIONAL LIABILITY COURT

30 OF PENNSYLVANIA

1 Subchapter

2 A. (Reserved)

3 B. Organization of the Medical Professional Liability Court

4 C. Jurisdiction of the Medical Professional Liability Court

5 D. Transitional Provisions

6 SUBCHAPTER A

7 (RESERVED)

8 SUBCHAPTER B

9 ORGANIZATION OF THE MEDICAL PROFESSIONAL

10 LIABILITY COURT

11 Sec.

12 811. Medical Professional Liability Court.

13 812. Powers of Medical Professional Liability Court.

14 813. Seat of court.

15 814. Lien of judgments for money.

16 § 811. Medical Professional Liability Court.

17 There is established a Medical Professional Liability Court
18 of Pennsylvania which shall consist of 18 judges.

19 § 812. Powers of Medical Professional Liability Court.

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

28 § 813. Seat of court.

29 (a) Central filing.--The Medical Professional Liability
30 Court shall maintain offices for the receipt of filings at one

1 or more locations within this Commonwealth as may be prescribed
2 by Medical Professional Liability Court rule.

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

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

14 (d) Reimbursement.--When regular or other sessions of the
15 Medical Professional Liability Court are held in facilities
16 provided by counties under this section, reimbursement for
17 actual and reasonable expenses shall be made to the counties
18 from the Medical Professional Liability Court Fund.

19 § 814. Lien of judgments for money.

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

28 SUBCHAPTER C

29 JURISDICTION OF THE MEDICAL PROFESSIONAL

30 LIABILITY COURT

1 Sec.

2 831. Definitions.

3 832. Original jurisdiction.

4 833. Exclusive jurisdiction.

5 § 831. Definitions.

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

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

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

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

20 "Medical professional liability claim." A claim brought by
21 or on behalf of an individual seeking damages for loss sustained
22 by the individual as a result of an injury or wrong to the
23 individual or another individual arising from a health care
24 provider's provision of or failure to provide health care
25 regardless of the theory of liability. A medical professional
26 liability claim includes, but is not limited to, a claim
27 grounded in negligence, informed consent, breach of contract,
28 misrepresentation or fraud.

29 § 832. Original jurisdiction.

30 The Medical Professional Liability Court shall have original

1 jurisdiction of all civil actions or proceedings against a
2 health care provider for all medical professional liability
3 claims.

4 § 833. Exclusive jurisdiction.

5 Except as provided in section 721 (relating to original
6 jurisdiction), the jurisdiction of the Medical Professional
7 Liability Court under section 832 (relating to original
8 jurisdiction) shall be exclusive.

9 SUBCHAPTER D

10 TRANSITIONAL PROVISIONS

11 Sec.

12 841. Organization of court.

13 842. Existing cases unaffected.

14 843. Rules.

15 844. Procurement of juries.

16 845. Filing fees.

17 846. Expiration review.

18 § 841. Organization of court.

19 (a) General rule.--The Medical Professional Liability Court
20 shall meet and organize in the City of Harrisburg. The court
21 shall procure the necessary supplies, equipment and personnel to
22 commence operation and promulgate any necessary rules of court
23 or operating procedures. When the court is organized and ready
24 for the transaction of business, the president judge of the
25 court shall so certify to the Governor, who shall issue a
26 proclamation stating that the court is organized and ready for
27 the transaction of its judicial business.

28 (b) Initial term of office.--The Governor shall appoint
29 persons to serve as judges of the court for purposes of
30 organizing its affairs. In order to permit the efficient

1 organization of the court, the date of appointment by the
2 Governor shall be deemed to be the date on which the vacancies
3 in the offices of the initial judges of the court filled by the
4 Governor under this subsection occurred, so that the first
5 election of judges of the court shall not be held until the
6 first municipal election following the initial appointment by
7 the Governor.

8 § 842. Existing cases unaffected.

9 A change in jurisdiction effected by amendments to this title
10 or to any other act shall not affect the jurisdiction of any
11 court over a pending matter, but, in the interest of justice, an
12 existing matter may be transferred to the Medical Professional
13 Liability Court.

14 § 843. Rules.

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

19 (b) Appellate division.--Until otherwise provided by Medical
20 Professional Liability Court rule, the Pennsylvania Rules of
21 Appellate Procedure shall be applicable to matters in the
22 appellate division of the Medical Professional Liability Court,
23 and rules of court promulgated by the Medical Professional
24 Liability Court applicable in the appellate division shall be
25 classified under Rule 104 of the Pennsylvania Rules of Appellate
26 Procedure.

27 § 844. Procurement of juries.

28 Until otherwise provided by Medical Professional Liability
29 Court rule, the procedures for the selection, compensation and
30 maintenance of juries for service in the Commonwealth Court

1 shall be applicable to the selection, compensation and
2 maintenance of juries in the Medical Professional Liability
3 Court.

4 § 845. Filing fees.

5 Until otherwise provided by Medical Professional Liability
6 Court rule, the fee bill applicable in the Commonwealth Court
7 shall be applicable in the Medical Professional Liability Court.

8 § 846. Expiration review.

9 (a) Reports to General Assembly.--The following reports
10 shall be submitted within 120 days after the expiration of 10
11 years after entry by the Medical Professional Liability Court of
12 its first final order in any action, proceeding or appeal:

13 (1) The Medical Professional Liability Court shall
14 submit to the General Assembly any recommendations for
15 legislation relating to size, structure or operations of the
16 court.

17 (2) The Attorney General shall submit a report to the
18 General Assembly reviewing and commenting on the operations
19 of the Medical Professional Liability Court and making
20 recommendations for legislation relating to size, structure
21 or operations of the court.

22 (b) Request for comments.--Appropriate committees of the
23 General Assembly shall request comments from the organized bar
24 and the general public concerning the size, structure and
25 operations of the Medical Professional Liability Court.

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

28 SUBCHAPTER H

29 MEDICAL PROFESSIONAL LIABILITY COURT

30 QUALIFICATIONS COMMISSION

1 Sec.

2 2171. Medical Professional Liability Court Qualifications
3 Commission.

4 2172. Composition of Medical Professional Liability Court
5 Qualifications Commission.

6 2173. Organization.

7 2174. Powers and duties.

8 § 2171. Medical Professional Liability Court Qualifications
9 Commission.

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

13 (b) Seal.--The Medical Professional Liability Court
14 Qualifications Commission shall have a seal engraved with its
15 name and other inscriptions as may be specified by Medical
16 Professional Liability Court rule. A facsimile or preprinted
17 seal may be used for all purposes in lieu of the original seal.

18 (c) Status.--The Medical Professional Liability Court
19 Qualifications Commission shall not be deemed to be an agency
20 for purposes of 65 Pa.C.S. Ch. 7 (relating to open meetings).

21 § 2172. Composition of Medical Professional Liability Court
22 Qualifications Commission.

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

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

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

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

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

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

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

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

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

20 (2) Office in any political party or political
21 organization.

22 (e) Transitional provisions.--

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

26 (2) The initial members of the Medical Professional
27 Liability Court Qualifications Commission shall serve as
28 follows:

29 (i) the commissioners appointed by the President pro
30 tempore of the Senate, one each for two, three and four

1 years;

2 (ii) the commissioners appointed by the Minority
3 Leader of the Senate, one each for two, three and four
4 years;

5 (iii) the commissioners appointed by the Speaker of
6 the House of Representatives, one each for one, two and
7 three years; and

8 (iv) the commissioners appointed by the Minority
9 Leader of the House of Representatives, one each for one,
10 two and three years.

11 § 2173. Organization.

12 The Medical Professional Liability Court Qualifications
13 Commission shall elect a presiding officer from among its
14 members and shall establish rules of procedure. The Medical
15 Professional Liability Court shall furnish staff support as may
16 be necessary for the conduct of the business of the commission.
17 The cost and expense of the commission shall be paid out of the
18 Medical Professional Liability Court Fund established under
19 section 3591 (relating to Medical Professional Liability Court
20 Fund).

21 § 2174. Powers and duties.

22 (a) General rule.--The Medical Professional Liability Court
23 Qualifications Commission shall evaluate the qualifications of
24 all of the following:

25 (1) Applicants seeking election as a judge of the
26 Medical Professional Liability Court who request evaluation
27 of their qualifications under section 3161(c) (relating to
28 election of judges of Medical Professional Liability Court).

29 (2) Applicants seeking appointment by the Governor to a
30 vacancy on the Medical Professional Liability Court under

1 section 3162 (relating to vacancies in office of judge of
2 Medical Professional Liability Court).

3 (3) Judges of the Medical Professional Liability Court
4 who seek retention in office under section 3163 (relating to
5 retention of judges of the Medical Professional Liability
6 Court).

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

9 (c) Immunity.--A member of the commission shall not be held
10 to have violated any criminal law or to be civilly liable under
11 a law by reason of the performance by the member of a duty,
12 function or activity authorized or required of the commission if
13 the member has exercised due care in such performance. This
14 subsection shall not apply with respect to an action taken by an
15 individual if the individual, in taking the action, was
16 motivated by malice toward any person affected by the action.

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

19 § 3131. Selection of judicial officers for regular terms.

20 * * *

21 (f) Medical Professional Liability Court.--The judges of the
22 Medical Professional Liability Court shall be elected in the
23 manner provided in section 3161 (relating to election of judges
24 of the Medical Professional Liability Court).

25 § 3132. Vacancies in office.

26 * * *

27 (e) Medical Professional Liability Court.--Subsections (a),
28 (b), (c) and (d) shall not apply to a vacancy in the office of a
29 judge of Medical Professional Liability Court. The provisions of
30 section 3162 (relating to vacancies in office of judge of

1 Medical Professional Liability Court) shall apply.

2 § 3153. Retention elections after regular term.

3 * * *

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

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

11 SUBCHAPTER E

12 SELECTION AND RETENTION OF JUDGES

13 OF MEDICAL PROFESSIONAL LIABILITY COURT

14 Sec.

15 3161. Election of judges of Medical Professional Liability
16 Court.

17 3162. Vacancies in office of judge of Medical Professional
18 Liability Court.

19 3163. Retention of judges of Medical Professional Liability
20 Court.

21 § 3161. Election of judges of Medical Professional Liability
22 Court.

23 (a) General rule.--Judges of the Medical Professional
24 Liability Court shall be elected for a regular term of office at
25 the municipal election next preceding the commencement of their
26 respective regular terms of office by the electors of this
27 Commonwealth.

28 (b) Special procedures.--The judges of the Medical
29 Professional Liability Court shall be elected as provided in the
30 act of June 3, 1937 (P.L.1333, No.320), known as the

1 Pennsylvania Election Code, except that:

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

4 (i) The date by which the Secretary of the
5 Commonwealth is to notify the county boards of election
6 of the offices for which candidates are to be nominated
7 at the ensuing primary.

8 (ii) The date by which the county boards of election
9 are to publish notice of public offices for which
10 nominations are to be made.

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

15 (3) Candidates for nomination who desire to have their
16 qualifications evaluated by the Medical Professional
17 Liability Court Qualifications Commission shall proceed as
18 provided in subsection (c). Candidates who do not desire to
19 have their qualifications evaluated by the commission shall
20 not be subject to subsection (c) and shall proceed instead in
21 the manner provided in the Pennsylvania Election Code.

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

27 (5) Each person filing a nomination petition or
28 nomination papers for a candidate shall pay a filing fee, at
29 the time of filing either with the commission or the
30 Department of State, as the case may be, of \$200. A

1 nomination petition or nomination papers shall not be
2 accepted or filed unless and until the filing fee is paid in
3 cash or by certified or cashier's check or money order made
4 payable to the Commonwealth of Pennsylvania. All money paid
5 on account of filing fees for candidates for nomination for
6 the office of judge of the Medical Professional Liability
7 Court shall be transmitted to the State Treasurer and shall
8 become part of the Medical Professional Liability Court Fund.

9 (6) (Reserved).

10 (7) On all official ballots except absentee ballots, the
11 names of all candidates from the same political party for
12 nomination or election shall be rotated from one precinct to
13 another. On absentee ballots the names of those candidates
14 shall be so alternated that each name shall appear, insofar
15 as reasonably possible, substantially an equal number of
16 times at the beginning, at the end and at each intermediate
17 place, if any, of the group of candidates from the same
18 political party.

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

22 (1) Nomination petitions and nomination papers shall be
23 filed with the commission instead of the Department of State
24 and must be filed with the commission no later than 60 days
25 prior to the date for filing nomination petitions and
26 nomination papers generally.

27 (2) The affidavit of candidates submitted to the
28 commission shall be in the form prescribed by the
29 Pennsylvania Election Code, with additional information as
30 may be required by the rules and regulations of the

1 commission.

2 (3) The commission shall evaluate the qualifications of
3 each candidate in accordance with the criteria and measures
4 of qualification as the commission promulgates in regulations
5 and shall assign each candidate a rating of one of the
6 following:

7 (i) Extremely well qualified.

8 (ii) Well qualified.

9 (iii) Qualified.

10 (iv) Unqualified.

11 (4) The commission shall publish in the Pennsylvania
12 Bulletin a report containing the rating assigned to each
13 candidate by the commission. The report of the commission
14 shall be published not later than the date the nomination
15 petition or nomination papers of the candidate would have
16 been due to be filed absent the provisions of this
17 subsection. The report shall include the nomination petition
18 or nomination papers and the affidavit of the candidate.

19 (5) A determination by the commission to report a
20 candidate as unqualified may be challenged in the same manner
21 as a contested nomination of the second class under Article
22 XVII(d) of the Pennsylvania Election Code, except that the
23 petition commencing the proceeding shall be filed by the
24 candidate within 20 days after the last day for filing
25 reports of the commission with the Department of State. A
26 determination by the commission to report a candidate as
27 extremely well qualified, well qualified or qualified shall
28 not be subject to challenge.

29 § 3162. Vacancies in office of judge of Medical Professional
30 Liability Court.

1 (a) General rule.--A vacancy in the office of judge of the
2 Medical Professional Liability Court shall be filled by
3 appointment by the Governor in the manner provided in this
4 section.

5 (b) Advertisement of vacancy.--Whenever a vacancy occurs in
6 the office of judge of the Medical Professional Liability Court,
7 the Medical Professional Liability Court Qualifications
8 Commission shall publicly advertise the vacancy and solicit
9 applications. When it is known that a vacancy will occur in the
10 future on a date certain, the process provided in this section
11 may begin 90 days prior to that date.

12 (c) Preparation of list.--From the applications received,
13 the commission shall prepare and submit to the Governor a list
14 of not more than seven persons who are qualified to hold the
15 office of judge of the Medical Professional Liability Court.
16 When more than one vacancy exists, the maximum number of persons
17 who may be included on the list submitted to the Governor shall
18 be increased by two persons for each additional vacancy. The
19 list shall be submitted to the Governor no later than 60 days
20 after the vacancy occurs. Immediately following submission of
21 the list to the Governor, the list shall be filed with the
22 Senate and made public by the commission. The commission shall
23 maintain the confidentiality of the information on the list, but
24 disclose the names of applicants whose names do not appear on
25 the list and applicants who have not requested that their names
26 remain confidential.

27 (d) Vote required for commission endorsement.--The list
28 submitted to the Governor shall contain the names of those
29 persons who receive affirmative votes from eight or more
30 commissioners, except that the number of persons shall not

1 exceed the limitations imposed by subsection (c).

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

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

16 (g) Substitute nominations.--The Governor may make a
17 substitute nomination from the list within 30 days after
18 receiving notification from the Senate of the rejection of a
19 prior nominee. Otherwise, the ranking person on the list who has
20 not been rejected by the Senate shall be deemed nominated as a
21 substitute.

22 (h) Rejection of all candidates.--If all of the persons on a
23 list have been nominated and rejected by the Senate, the Senate
24 shall so notify the commission. The commission shall meet within
25 10 days of receipt of notification by the Senate and publicly
26 select by lot one person from the list. The person selected
27 shall be deemed appointed and confirmed to the vacant position
28 and shall be so commissioned by the Governor.

29 § 3163. Retention of judges of Medical Professional Liability
30 Court.

1 At the expiration of the term of office of a judge of the
2 Medical Professional Liability Court, the judge shall be subject
3 to retention in office and retirement as provided in this part,
4 except that, whenever a judge of the Medical Professional
5 Liability Court files a declaration of candidacy for retention
6 election, the Medical Professional Liability Court
7 Qualifications Commission shall review the judge's judicial
8 performance and shall, on or before the first Monday of April of
9 the year of the retention election, report to the Department of
10 State whether or not in the opinion of the commission the judge
11 is qualified to be retained in office.

12 Section 11. Title 42 is amended by adding a section to read:
13 § 3582. Salaries of judges of Medical Professional Liability
14 Court.

15 (a) Salaries.--The annual salary of the President Judge of
16 the Medical Professional Liability Court shall be \$104,500. The
17 annual salary of each of the other judges of the Medical
18 Professional Liability Court shall be \$104,000.

19 (b) Annual cost-of-living adjustment.--Beginning January 1
20 of the year which is five years after the effective date of this
21 section and each January 1 thereafter, the annual salaries under
22 this section shall be increased by the percentage change in the
23 Consumer Price Index for All Urban Consumers (CPI-U) for the
24 Pennsylvania, New Jersey, Delaware and Maryland area for the
25 most recent 12-month period for which figures have been
26 officially reported by the United States Department of Labor,
27 Bureau of Labor Statistics, immediately prior to the date the
28 adjustment is due to take effect. The percentage increase and
29 salary amounts shall be determined prior to the annual effective
30 date of the adjustment by the Supreme Court and shall be

1 published in the Pennsylvania Bulletin by the Court
2 Administrator of Pennsylvania within 20 days of the date the
3 determination is made.

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

6 SUBCHAPTER G

7 MEDICAL PROFESSIONAL LIABILITY COURT FUND

8 Sec.

9 3591. Medical Professional Liability Court Fund.

10 3592. Receipts and other credits.

11 3593. Payments and other debits.

12 § 3591. Medical Professional Liability Court Fund.

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

19 § 3592. Receipts and other credits.

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

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

24 (2) The following surcharges are imposed:

25 (i) A surcharge upon the health care facility
26 licensure application and renewal fees of the Department
27 of Health under section 807(b) of the act of July 19,
28 1979 (P.L.130, No.48), known as the Health Care
29 Facilities Act, in the amount of 10% of each fee.

30 (ii) A surcharge upon the civil penalties collected

1 by the Department of Health under section 817(b) of the
2 Health Care Facilities Act in the amount of 25% of each
3 fee.

4 (iii) A surcharge upon the licensing, examination,
5 registration, certificates and other fees of all health
6 care-related professionals of the Bureau of Professional
7 and Occupational Affairs of the Department of State in
8 the amount of 10% of each fee.

9 (3) Amounts received by the Commonwealth on account of
10 the operation of the Medical Professional Liability Court.
11 Fees and charges of the Medical Professional Liability Court
12 shall be fixed by the governing authority of the Medical
13 Professional Liability Court with a view initially to the
14 operation of the Medical Professional Liability Court on a
15 self-sustaining basis to the extent feasible and eventually
16 to the elimination of the surcharges provided in paragraph
17 (2) (ii) and (iii) and the reduction of the surcharge set
18 forth in paragraph (2) (i).

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

24 § 3593. Payments and other debits.

25 There shall be disbursed from or debited to the Medical
26 Professional Liability Court Fund amounts payable by the
27 Commonwealth on account of the operation of the Medical
28 Professional Liability Court.

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

1 § 5105. Right to appellate review.

2 * * *

3 (b) Successive appeals.--

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

14 (2) There shall be a right of appeal in all cases from
15 the Medical Professional Liability Court to its appellate
16 division, which shall constitute a separate court for the
17 purposes of section 9 of Article V of the Constitution of
18 Pennsylvania, but, except as provided in section 724(b)
19 (relating to allowance of appeals from intermediate appellate
20 courts), there shall be no right of appeal from the Medical
21 Professional Liability Court or the appellate division of the
22 Medical Professional Liability Court to the Supreme Court
23 under this section or otherwise.

24 * * *

25 § 5571. Appeals generally.

26 (a) General rule.--The time for filing an appeal, a petition
27 for allowance of appeal, a petition for permission to appeal or
28 a petition for review of a quasi-judicial order, in the Supreme
29 Court, the Superior Court [or], the Commonwealth Court or the
30 Medical Professional Liability Court shall be governed by

1 general rules. No other provision of this subchapter shall be
2 applicable to matters subject to this subsection.

3 * * *

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