Issues For Medical Malpractice Reform

Presented by
Virginia Association of Defense Attorneys
Suits are filed as “fishing expeditions” without competent expert support.

- Medical Malpractice Review Panel
- North Carolina style certification
- Expert disclosure before discovery
Trend toward bringing medical claims as “battery,” “breach of contract” or “defamation.”
Statute of Limitations

Stretched

- Filing in remote jurisdictions
- Series of ex parte non-suits
Va. Code §8.01-399

- Restricts investigation of claims
- Sometimes blocks expert testimony by treating health care provider
- Imbalance in medical malpractice litigation
Increases in uninsured, charitable, or limited-reimbursement services
Evidentiary Issues

- “I’m sorry” protection
- Introduction of medical literature
- Self-critical analysis protection
- Fictitious damages through recent collateral source rule interpretations
- Inaccurate impression created by limiting number of experts.
Expert Witness Abuses
Use of depositions to support summary judgment