

# How ANSI Standards Are Used in Expert Witness Litigation

Rob McNealy  
Simon Institute Symposium  
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SAFER WALKWAYS ASSOCIATION

**flooristics**

# Who is Rob McNealy?

- BS (Geography/Marketing) - Central Michigan University
- MBA - Colorado State University
- 12 Years in Flooring Industry
- Certified Floor Inspector
- Certified Walkway Auditor/Walkway Audit Certificate Holder (WACH)
- Founder, Safer Walkways Association
- President, Flooristics - Floor Inspector/Walkway Auditor

# Standards

- A document established by consensus and approved by a recognized body that provides, for common and repeated use, rules, guidelines or characteristics for activities or their results
- Describe best practices
- Compliance is **voluntary**

# Regulations

- A government imposed requirement, which specifies product, process or service characteristics, including the applicable administrative provision.
- Compliance is **mandatory**.
- Sometimes standards can become regulations
  - Usually by being referenced by the government

# Standard development process



# Applying standards in the legal realm

- Standards are a common metric that courts use in evaluating legal cases

# How expert witnesses use standards

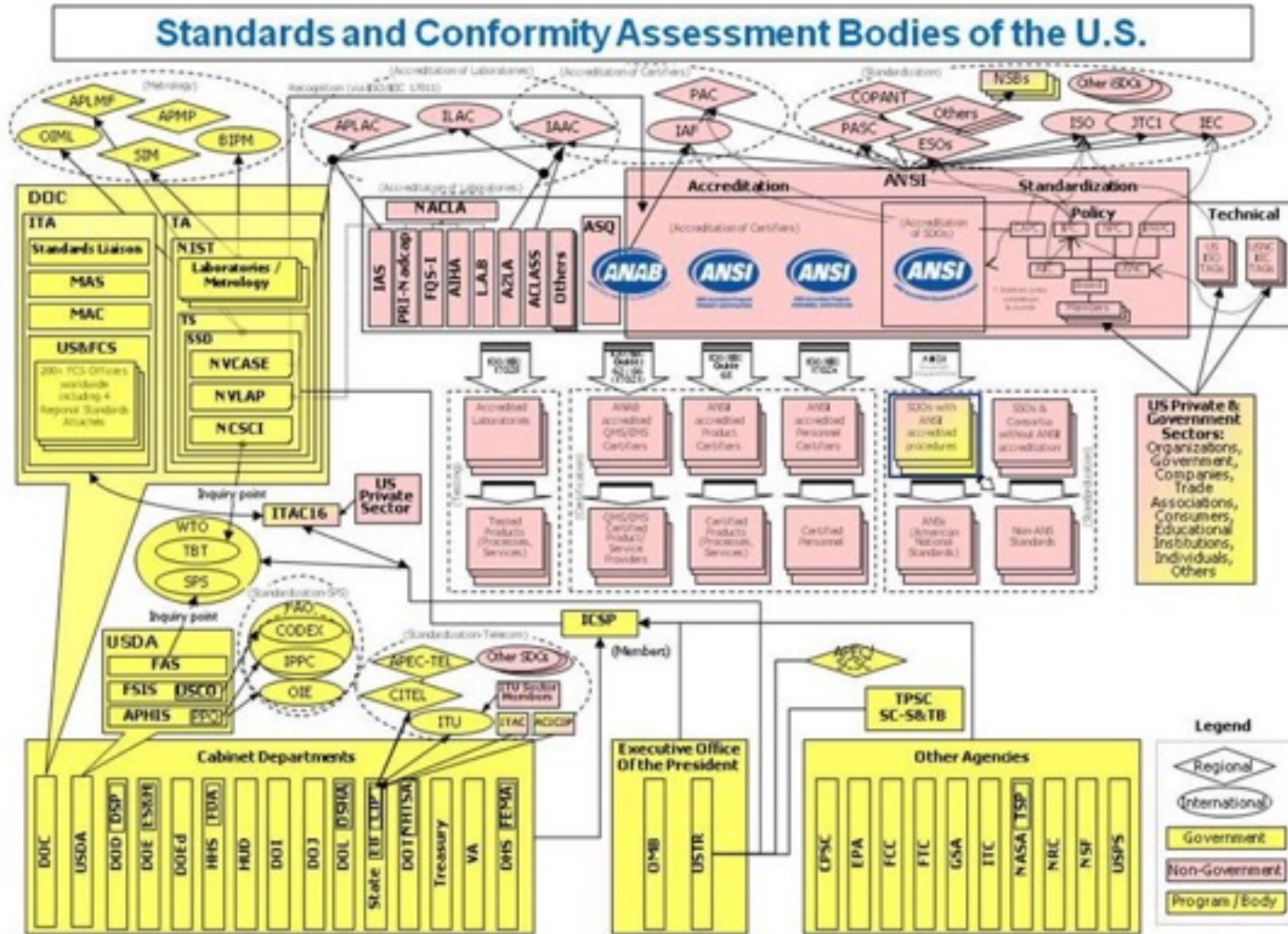
- Experts present their cases referencing standards that are most applicable
- Most applicable standards are usually those referenced by governmental agencies like OSHA
- The role of experts is to identify and explain why a certain standard applies
- Usually the winner is the one who does that the best

# A good expert will

- Have training and/or certification in the standards they are citing
- Understand competing or conflicting standards and their strengths and weaknesses
  - ANSI A137.1 vs B101.1
- Maintain up to date knowledge on changes to standards



# Why you need an expert



# Case study 1 - Educational facility



- Victim had permanent injuries
- Direct application of standard for Coefficient of Friction
- Lack of janitorial standards are contributing factor
- Safe Use of Cleaning Chemicals standard would apply

# Case study 2 - Hotel



- Victim died
- No direct standard applied
- Other indirect standards were successfully applied

# Medical Perspectives on Standard Development

Kristie McNealy, MD, CPHQ  
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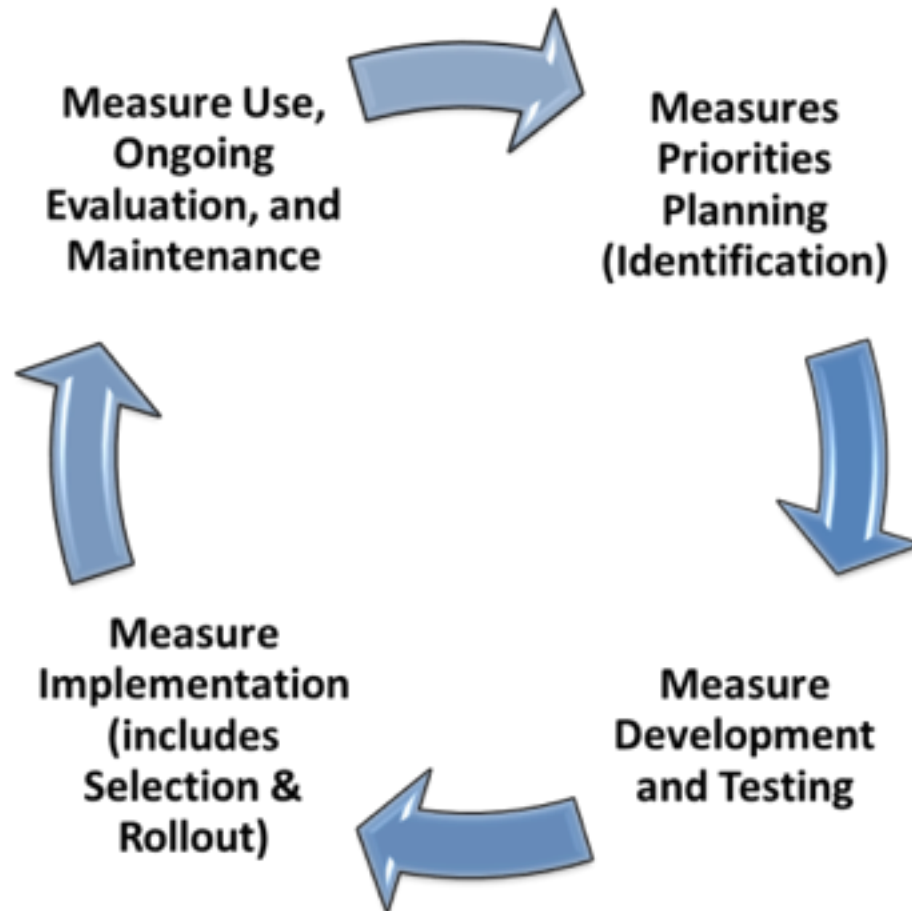
# Who is Kristie McNealy?

- BA in Genetics from Ohio Wesleyan University
- MD from University of Colorado School of Medicine
- 17 years experience in research, healthcare quality, and program evaluation
- Former board member of a healthcare system in rural WY
- Work includes identifying best practices in:
  - Infection prevention
  - Fall prevention
  - Worker safety

# Standards in healthcare

- Based on systematic review of available evidence
- Usually come from a consensus body
- Quality measures are developed around both standards and common harms

# Measure development



# Workplace injury rates

## EXPOSURE TO HARMFUL SUBSTANCES OR ENVIRONMENTS

### APPLICABLE OSHA STANDARDS

Occupational Exposure to Bloodborne Pathogens (1910.1030)

Hazard Communication (1910.1200)

Personal Protective Equipment (1910.132-138)

Respiratory Protection (1910.134)

### BLS INJURY DATA

- » 15.7 incidents requiring time off from work per 10,000 full-time janitors and cleaners

## MUSCULOSKELETAL DISORDERS

### BLS INJURY DATA PER 10,000 FULL-TIME JANITORS AND CLEANERS

- » 82.1 total MSD injuries requiring time off from work, with 41.2 incidents due to lifting
- » 4.9 repetitive motion injuries requiring time off from work

## SLIPS, TRIPS AND FALLS

### APPLICABLE STANDARDS

Walking-Working Surfaces – General Requirements (1910.22)

Provision for the Slip Resistance on Walking/Working Surfaces (ANSI A1264.2-2006)

### BLS INJURY DATA PER 10,000 FULL-TIME JANITORS AND CLEANERS

- » 20.2 fall-to-lower-level injuries requiring time off from work
- » 52.7 fall-on-same-level injuries requiring time off from work
- » 11.3 slip or trip injuries requiring time off from work

<http://www.safetyandhealthmagazine.com/articles/cleaning-up-safety-2>



# Cleaning worker health hazards

- According to the Bureau of Labor Statistics janitors and cleaners suffered more than 46,000 injuries requiring days away from work and had the 16th highest injury rate of all occupations (2010).
- One study found that spray bottles in almost 50% of cleaning rooms were not labeled, and **cleaners were resorting to smelling the bottles to identify chemicals!**<sup>1</sup>

1. J Walsh, Dirty Schools, Forgotten Cleaners: The Injuries of Victoria's Failed Experiment in Contract School Cleaning, LHMU, Melbourne, December 2004.

# Importance of training

- In 2002 a Toronto school employee died after inhaling mixture of bleach and toilet bowl cleaner.
- Investigation revealed she hadn't had any documented training in cleaning chemical handling since 1989.
- Training required under Safe Use of Cleaning Chemicals standard could prevent a similar tragedy.

# Contact Info

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