

Effective Compliance/Enforcement Methods

Radon Regulatory Enforcement in Kansas

Mark Ungerer, *Kansas Department of Health and Environment*

Radon Licensing Enforcement

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NRPP Compliance Management

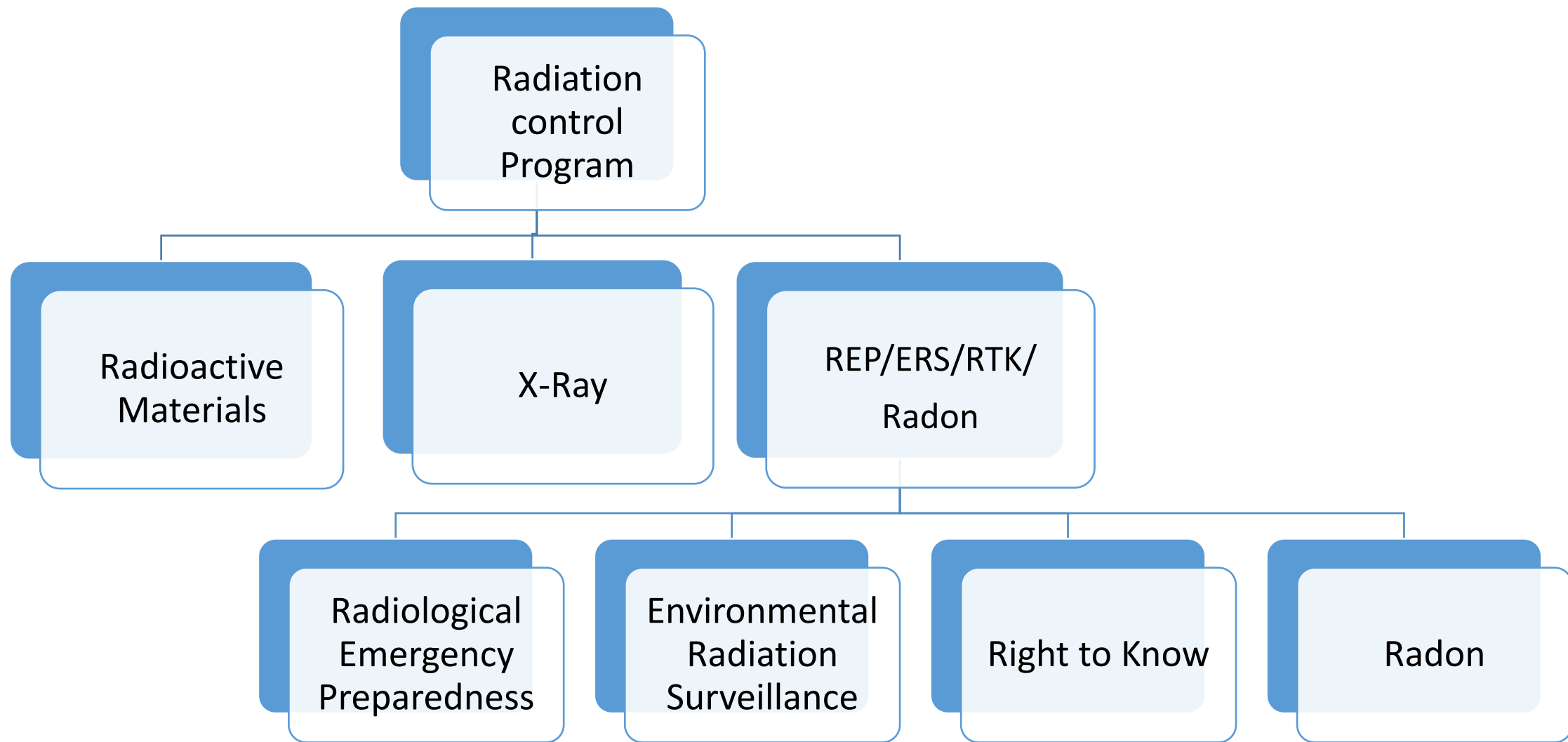
Amy Roedl, *National Radon Proficiency Program*



Radon Regulatory Enforcement in Kansas

Mark Ungerer | September 16, 2024

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Radon Regulatory Enforcement in Kansas

Certification State

- Individual certifications for measurement, mitigation, or laboratory

2 Year Certification Period

- Initial course and exam required for certification. CE required for renewal every 2 years

\$100 fee for measurement and mitigation

- Same cost for renewal. Lab fee is \$250. No fee for mitigation installation.

Radon Regulatory Enforcement in Kansas

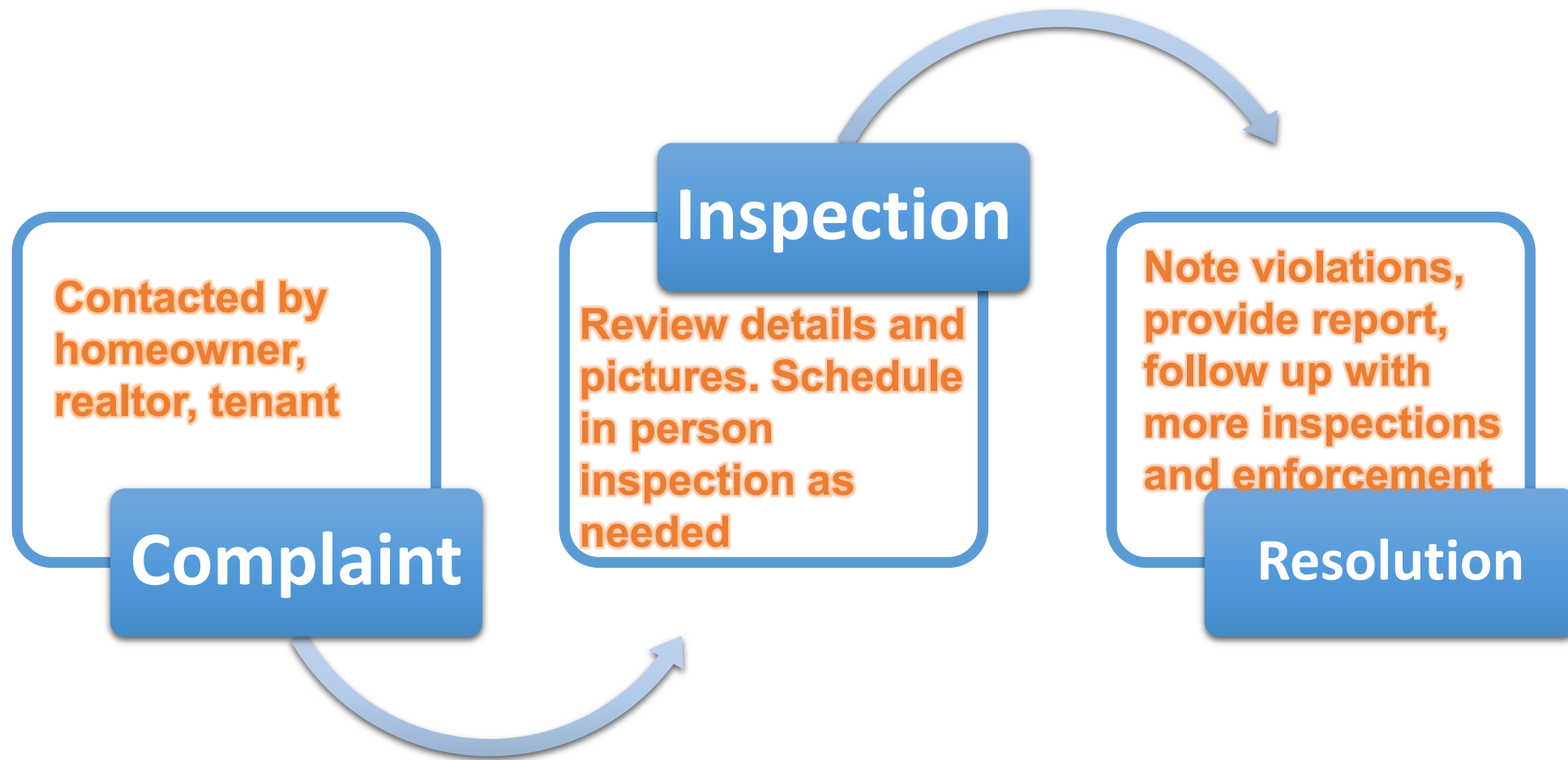
What We Regulate

Enforce
Adopted
Measurement
and Mitigation
Standards

Standards
must be a
dated version,
no rolling
adoption as
standards are
updated

Do NOT
regulate RRNC
– No state-
wide building
code in Kansas

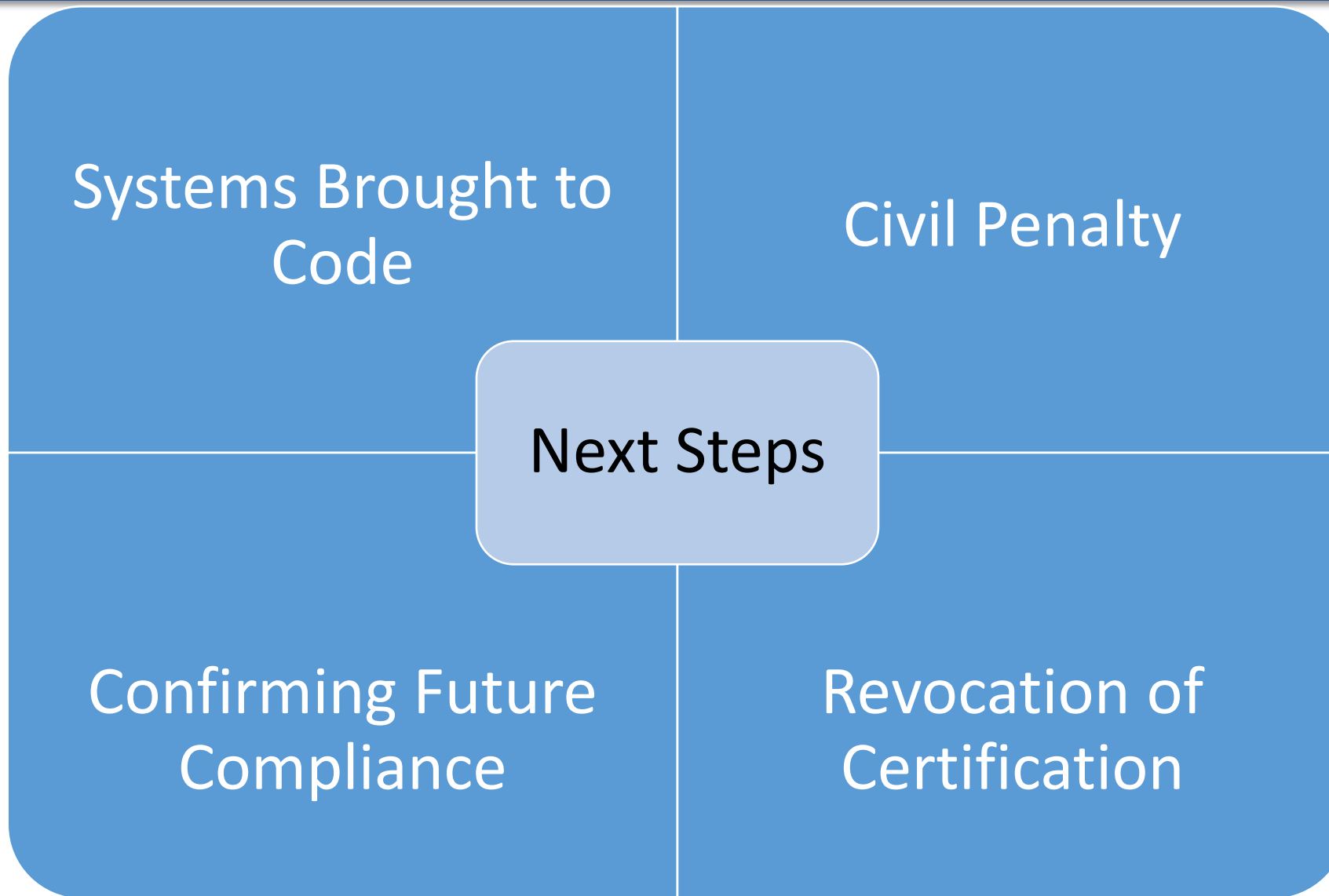
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Minnesota Department of Health Radon Licensing Enforcement

Daniel Tranter | Indoor Air Supervisor

Routine Mitigation System Inspections

- How they start
 - Letters we mail to homes where mitigation installed
 - Homeowners see MDH tag on their system
 - Public sees our website, real estate agent encourages
- MDH schedules with homeowner
 - Try to group by region for road trips



Routine Measurement Professional Audits

- MDH selects measurement pros
- Contacts licensee
 - Request records (test reports, QC charts, forms, QA plan, etc)
- Meet on-line
 - review their testing process
 - ask questions, review records
 - educate (resources, standards)



Complaint Investigations

- Public calls/emails with specific concerns
- MDH opens cases
 - Inspect mitigation system
 - Audit measurement pro (or request information)
 - May send a 'Request For Information' letter
 - If sufficient evidence, initiate enforcement



MDH Initiated Investigations

- MDH staff finds possible radon work not in compliance (such as unlicensed person)
 - Company website promoting radon work
 - Social media, review sites
 - Federal government reports of testing (public records)
 - MN codes website: electrical permits
- Contact homeowner (to inspect) and/or contractor



Inspections and Enforcement (annual numbers)

Fed Year	Total Businesses Evaluated	Routine Measurement Pros Audited	Routine Mitigation Pros Inspected	Public Complaints	MDH Initiated Investigations	Enforcement Actions
21	307	151	81	19	56	96
22	307	83	120	12	92	164
23	260	128	68	25	39	194

Most Common Mitigation Violations

- Labeling (primary label, electrical disconnect, sump, pipe, membrane)
- Operation Maintenance Monitoring Plan
- Electrical permit (obtained, closed)
- Tags affixed, reporting to MDH
- Active notification monitor ('alarm')
- Water heater back drafting
- Sealing (floor-wall joint, sump cover)



Most Common Measurement Violations Examples

- Notification
 - Notify property owners, radon test in progress sign
- Testing
 - Duplicates every 10%, test each foundation type
- Timing
 - Closed house (delay test 12 hrs if building open), wait 24 hrs after mitigation, at least 46-hour test
- Test reports
 - Documenting conditions: ventilation, property vacant, deviations, weather
 - Standard 'Advisories' (actions if > 4 or < 4)



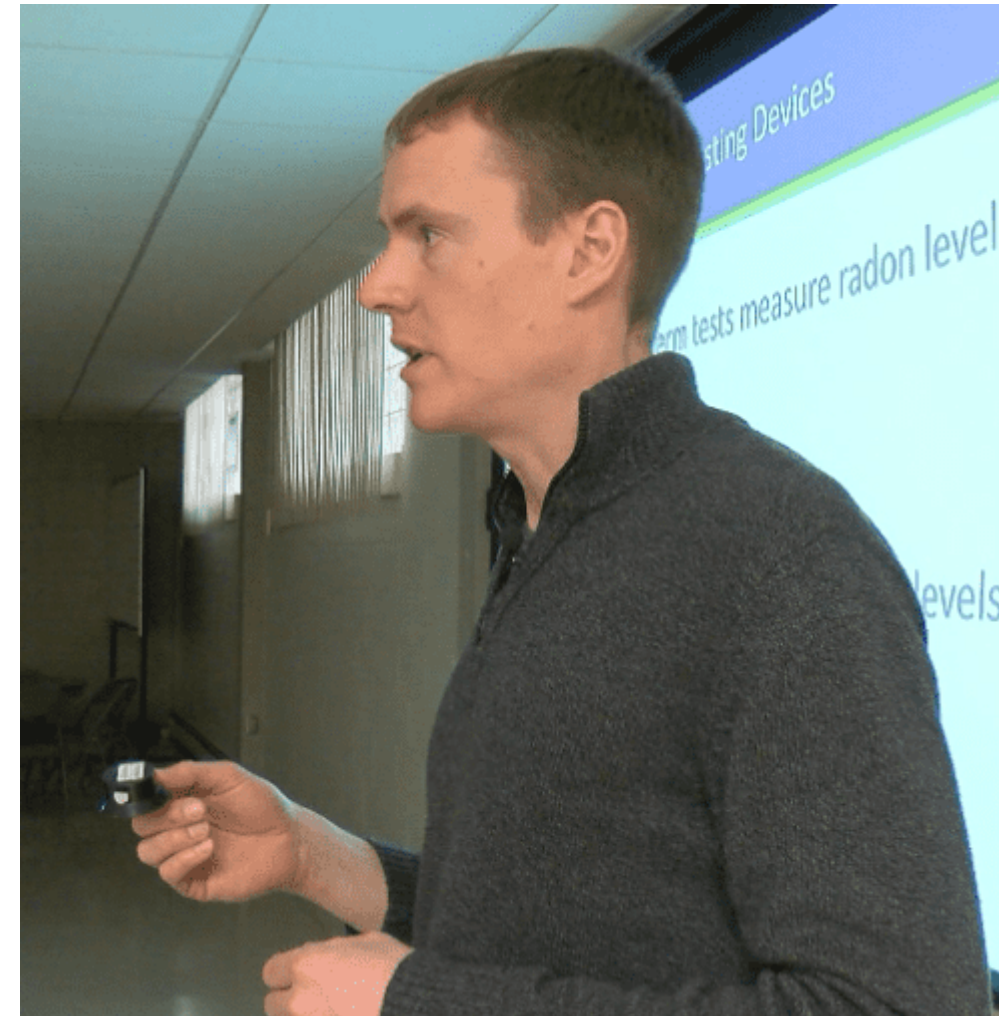
Real Estate is Critical Sector to Support Licensure

- About half of all the MN testing and mitigation in homes is real estate
- Real estate agents help their clients:
 - Complete disclosure and notification (MN specific law)
 - Recommend testing
 - Pick licensed pros
 - Facilitate testing notification form reviewed and signed
 - Ensure closed house conditions
 - Suggest homeowner requests MDH inspection



MDH Real Estate Education

- Detailed MDH website: home buyers, sellers, agents
- Maintain 2-page real estate publication (MN law)
- Free continuing education (in-person, statewide)
- Partner with real estate offices (custom trainings)
- Direct mailer (34,000+)
- Social media
- Newsletter articles



Conclusions

- Radon licensing helps improve measurement and mitigation
 - Uncredentialed people became licensed, fewer violations, less significant problems
- Robust program (with fees/funding) needed:
 - staff, IT, legal, over-head, other costs
 - offer continuing education
 - routinely inspect and audit licensees
 - investigate complaints and initiate MDH investigations
 - conduct enforcement

NRPP Compliance Management

Amy Roedl, NRPP Proficiency Director

Compliance Office



Complaints - two types

- Complaints against certified individuals
- Complaints against certification activities

Appeals Process



Complaints Against Certified Individuals

1. About the work: Violation of ANSI/AARST Standards
2. About conduct: Violation of NRPP Code of Ethics/Certification Terms Agreement

Classes of Violations:

A, B, C & D

Not responding or not cooperating = Class D

Goal: correction, education, prevention

Class A & Class B Violations



Class A: least severe, 1-2 smaller issues

Compliance Office action:

- Notice of requirement to resolve within 30 days
- Probation until resolved

Class B: multiple Class As, 3+ standards violated

Compliance Office action:

- Notice of requirement to resolve within 30 days
- Probation until resolved
- PLUS additional 4 CEs

Class A and Class B violations noted in certificant's NRPP account and state radon office is notified

Class C Violations



Class C: place the homeowner in short term imminent danger

Compliance Office action:

- Notice of requirement to immediately return and correct issue
- Action plan with deadlines; status reporting to Compliance Office
- Probation until resolved
- PLUS additional 4 CEs
- May be assessed a daily fine if deadlines not met
- May require third-party inspection, cost paid by certificant

Class C violations noted in certificant's NRPP account and state radon office is notified

Suspensions and revocations will be reported to the certificant's employer and state radon office and will be posted in their NRPP public profile.

Class D Violations



Class D: the most serious class of violations

Compliance Office action(s):

- Suspension of a single, related certification – length to be determined by Disciplinary Panel.
- Permanent revocation of a single, related certification.
- Suspension of all NRPP credentials - length to be determined by Disciplinary Panel.
- Permanent revocation of all NRPP credentials.
- Ban from becoming certified with NRPP - length to be determined by Disciplinary Panel.
- Ban from testing with NRPP - length to be determined by Disciplinary Panel.
- Invalidation of test scores and required retesting.
- Suspension or revocation of approved course, device, laboratory, or chamber.

The following will also occur with a substantiated Class D infraction:

- Posting of the infraction and discipline on the NRPP website
- Reporting of the violation and revocation to certificant's employer and state radon program.

Process



- Submit *Complaint Form* and supporting evidence
- Confidentiality
- Disciplinary Panel of NRPP's Certification Council
 - May request additional info from complainant
- Notifications
- Disciplinary Panel review & determination
- Discipline depends on class of violation
- ~ 30 days to complete

Complaints Against Certification Activities



- NRPP not in compliance with its own policies
- NRPP not in compliance with ISO/IEC 17024
- NRPP policies unfair or unfairly applied
- Certification decisions unjust or inaccurate

Includes complaints about

- Certification policies, procedures, certification requirements, activities, approved courses or fees
- Anyone involved in any certification activity such as course trainers, examinees, exam proctors, NRPP employees and volunteers.

Complaints Against Certification Activities



Disputes and grievances versus formal complaints:

- When issue cannot be resolved to the complainant's satisfaction or when an acceptable resolution cannot be reached by informal means.

Submit *Complaint Form* within 14 calendar days of the event

Subject to confidentiality

Conflicts of interest/recusal:

- The group or individual responsible for handling or deciding on the complaint cannot be directly responsible for the subject (topic) of the complaint.
- Formal complaints against individuals cannot be handled or decided on by the person that the complaint is about.

Appeals



- Reconsideration of Eligibility Decision
- Reconsideration of Recertification Decision
- Reconsideration of Disciplinary Decision
- Reconsideration of Other Adverse Certification Decision

Process



Submit completed *Appeal Form*

- Must be received within 30 calendar days of the decision being appealed

To NRPP's Certification Management Committee

- May request additional information
- Decision within 45 calendar days
 - Uphold the initial decision and deny the appeal
 - Overturn the initial decision and rule in favor of the appellant
 - Modify the solution

Second level appeal through arbitration

Questions?