



3/1/2017

Dear Legislators,

The National Electrical Contractors Association (NECA) participated in the Coraggio Group process in 2016 with a unique perspective.

Back in 2014, NECA convened a working group comprised of a broad cross section of healthcare facility owners and construction contractors. There was universal agreement among the group that problems arise due to the involvement of two separate Authority Having Jurisdictions (AHJs), which inevitably creates enforcement conflicts.

The state has no process to identify conflicting federal and state codes, and no formal plan on how to handle conflicts. As a result, when conflicts occur, contractors must wait for the State Fire Marshals and Building Officials to reach consensus. Those disputes do not always reach resolution in a reasonable timeframe, leaving contractors in the lurch with no clear direction how to proceed and unable to complete the project on time and on budget.

There are instances where State Fire Marshals have required costly design changes at the end of construction, despite having conducted their own plan review before construction began. In many cases, the State Fire Marshal's new requirements have led to delayed completion, and, in some cases, changes required by the State Fire Marshal would put the facility out of compliance with the state building code.

Adding insult to injury, there have been several situations in the last few years where State Fire Marshals did not provide any written legal or codified basis for a specific required change, even when requiring contractors to build to a standard considered out of compliance with state codes.

NECA's working group clearly understands that the Centers for Medicare and Medicaid Services (CMS) is a federal agency that issues construction requirements through the National Fire Protection Association (NFPA) 101 Life Safety Code (LSC), and we strongly support the intended purpose of those requirements: to provide building occupants safety from fire, smoke and panic. But we also understand that many of these responsibilities are duplicative with state building code enforced by officials authorized by the Building Codes Division (BCD), who are also responsible for protecting the health and safety of building occupants.

We understand that in Oregon, CMS partners with the Oregon Health Authority (OHA), and OHA in turn subcontracts with the Office of State Fire Marshal (OSFM) to enforce the federal CMS codes. Therefore, State Fire Marshals play a role in approving final occupancy of healthcare facilities, alongside the traditional building official. However, due to the aforementioned inconsistencies with the State Fire Marshal's own standards and conduct, our group proposed a solution that would shift the interagency agreement in order to reposition the CMS Fire and Life Safety contract from State Police/State Fire Marshal to BCD for plan review and final inspection.

Unfortunately, the policy concept we envisioned was not what was reflected in SB 886 (2015), as introduced.

NECA agreed to temporarily suspend efforts to pass SB 886 during the 2015 session, based primarily on commitments from the then-Governor's health care policy advisor to convene a process that would be industry-driven. While there was no guarantee that the solution fashioned by our working group would be the conclusion of the working group, we accepted in good faith that our framework would be the starting point for a process led internally by the Governor's office.

Unfortunately, the process that has been conducted by the contractor name the Coraggio Group was not industry-driven and spent more time discussing whether a problem existed or not, and cherry picking only the specific information that fit their preconceived notions to avoid any solution that caused disruption of existing agency activities—rather than exploring real solutions. To the contrary, we believe agency processes that are dysfunctional can only be corrected through disrupting that dysfunction.

We believe the path suggested by the Coraggio Group does nothing more than perpetuate the status quo and will cost the private sector more money without improving service or safety. Somehow, this process resulted in a solution that will actually hurt the people we sought out to help. This is why believe legislation like HB 2183 is needed to correct this situation before it gets any worse.

Thank you for considering this comment on behalf of the National Electrical Contractors Association.