



September 28, 2015

Howard A. Zucker, MD, J.D.  
Commissioner of Health  
State of New York, Department of Health  
Corning Tower Empire State Plaza,  
Albany, New York 12237

Re: September 22, 2015 Issuance of Institute of Medicine (IOM) "Study on Improving Diagnosis in Health Care" and a state regulation (10 NYCRR § 34-2.11(b)(1)(v)) that prohibits pathologist-patient conferral on the interpretation of laboratory/pathology test results.

Dear Commissioner Zucker:

As I am sure you are aware, the Institute of Medicine (IOM) issued a study on September 22, 2015 entitled "Improving Diagnosis in Health Care." This study was in part sponsored by the College of American Pathologists (CAP). The main purpose of the study was to examine how to reduce the potential for diagnostic errors in the practice of medicine.

I wanted to bring to your attention several of the conclusions and recommendations of the IOM insofar as these themes elucidated by the IOM, in order to promote quality in health care and to reduce the risk of diagnostic error, are impeded in implementation in the New York health care system by a regulation (10 NYCRR § 34-2.11(b)(1)(v)) that prohibits pathologist-patient conferral on the interpretation of laboratory/ pathology test results.

#### **Need for Greater Clinical Integration of Pathologists into the Health Care Team**

"Pathologists and radiologists are diagnosticians who provide information and consultations that are critical to diagnosing patients' health problems, such as advising on the appropriate diagnostic testing for a particular patient and conveying the implications of the test results to treating health care professionals. Despite the important roles that laboratory medicine, anatomic pathology, and medical imaging play in a diagnosis, pathologists and radiologists have sometimes been treated as ancillary or support services."

*"Thus, the committee recommends health care organizations should facilitate and support collaboration among pathologists, radiologists, other diagnosticians, and treating health care professionals to improve diagnostic testing processes. This includes collaboration throughout the testing process, including the ordering of appropriate tests or images, analysis and interpretation, the reporting and communication of results, and subsequent decision making."*

"Thus, health care professionals need improved education and training on the appropriate use of diagnostic tests and the application of these results to subsequent decision making. The committee recognizes that, given the growing number and complexity of the options available, it is not feasible to expect that clinicians will be familiarized with every available diagnostic test procedure. Therefore, in addition to improved education in diagnostic testing, improved collaboration among treating clinicians and pathologists and radiologists is warranted."



**IOM Endorsed Patient Engagement Activities:**

"To facilitate patient and family engagement, the committee recommends that health care professionals and organizations provide patients with opportunities to learn about the diagnostic process."

"Thus, the committee recommends that health care professionals and organizations should create environments in which patients and their families are comfortable engaging in the diagnostic process and sharing feedback and concerns about diagnostic errors and near misses."

"Thus, the committee recommends that health care professionals and organizations should ensure patient access to EHRs, including clinical notes and diagnostic testing results, to facilitate patient engagement in the diagnostic process and patient review of health records for accuracy."

"Thus, the committee recommends that health care professionals and organizations should identify opportunities to include patients and their families in efforts to improve the diagnostic process by learning from diagnostic errors and near misses."

I am also enclosing a copy of the IOM Press Release on the issuance of the study and copy of NBC news coverage on the release of the study which illustrates the need for pathologist-patient communication. It is our understanding that the Codes Committee of the Public Health Planning Council will be discussing this matter at their next meeting on October 8, 2015.

Thank you for your courtesies and consideration of this information prior to the October 8<sup>th</sup> meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Gene N. Herbek, MD, FCAP".

Gene N. Herbek, MD, FCAP  
President

cc: Michael P. Ryan, Director, Division of Laboratory Quality, NYS Health Dept.  
Jeffrey A. Kraut, Chair, New York State Public Health and Health Planning Council  
Mary Fowkes, MD, FCAP, President, New York State Society of Pathologists  
Barry R. Ziman, CAP Director, Legislation and Political Action