



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

Dear Commissioner Zucker:

I write in support of the request of the College of American Pathologists and the New York State Society of Pathologists regarding the rescission of 10 NYCRR Section 34-2.11 (b)(l)(v).

I write to you in my two capacities as the Executive Director of the national men's cancer support and advocacy New York based nonprofit organization, Malecare and as the President of the Board of Directors of the New York State Prostate Cancer Coalition. Both organizations provide support and advocacy for nearly 8,000 New York State residents diagnosed with prostate cancer.

Understanding the pathology of a prostate biopsy is a critical component of treatment choice making. Prostate cancer presents a multitude of treatment choices which often overwhelm the newly diagnosed patient. Consultations with qualified clinicians helps a patient understand their disease state and empowers them to making decisions that they can live with.

New York State is alone in our nation in preventing useful conversations between the patient and the pathologist, who, incidently, is the only clinician who spends time actually looking at the patients cancer cells. Quality of care and patient treatment navigation would be vastly improved and more in line with 49 other states in our country, if the Department of Health rescinds this harmful regulation.

Please feel encouraged to contact me if you have any questions or wish further comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Darryl Mitteldorf". The signature is fluid and cursive, with a long horizontal flourish extending to the right. To the right of the signature, the date "10/23/2015" is handwritten in black ink.

Darryl Mitteldorf, LCSW  
Executive Director  
Malecare  
85 Delancey Street, #39  
New York NY 10002



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November 18, 2015

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

Dear Commissioner Zucker:

On behalf of the National Kidney Foundation (NKF) and the millions of patients we represent, I am writing to encourage the repeal of the New York State regulation that prohibits pathologists from responding to patient inquiries regarding their pathology/laboratory test results.

Many patients with kidney disease require pathological analysis to provide a diagnostic determination of the nature and extent of their illness, which usually entails consultation between the pathologist and the ordering physician. Patients may have questions of the pathologist who performed this critical role in their diagnostic work-up. The pathologist has a physician duty of care to the patient. New York State regulations should not be a barrier to patient-pathologist physician communication. We also believe that such a regulation conflicts with the recently established federal law that allows patients to obtain test results directly from a laboratory.

For these many reasons, the NKF urges that the regulation be repealed. Thank you for consideration of our comments.

Sincerely,

*Kerry Willis*

Kerry Willis, PhD  
Chief Scientific Officer



*The Long Island Breast Cancer Action Coalition*

November 11, 2015

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

Dear Commissioner Zucker:

I am writing in support of the request of the College of American Pathologists and the New York State Society of Pathologists regarding the repeal of the regulatory prohibition on pathologists from responding to patient inquiries regarding their pathology and laboratory test results.

As a breast cancer patient advocacy group, the Long Island Breast Cancer Action Coalition believes that the current New York government regulation that prohibits a pathologist physician from responding to patient questions about her breast cancer test result is an improper and ill-conceived barrier to patient access to quality in medicine. Not every patient will want to confer with her pathologist, but the right to do so should not, in any way, be legally barred by the State of New York. Advances in genetic medicine and new treatment options for cancer patients make it, at times, especially imperative that patients confer with several doctors, including pathologists, regarding a cancer diagnosis. A New York State regulation that paternalistically prohibits such patient interaction with her diagnosing pathologist is only to the patient's detriment.

The main purpose of the change in federal law enabling patients to receive test results directly from the laboratory was to empower patients with unimpeded access and knowledge regarding their health condition. As you know, prior to the federal law change, New York was one of a few states that prohibited such access. Now that federal law has voided the prior New York regulation and enhanced every New York patient's ability to gain information directly from the laboratory, critical to lives and well-being, there is no logic or foundation for continuation of the New York State prohibition on the pathologist from responding to patient inquiries. Accordingly, on behalf of every patient with breast cancer, I request that this outdated, unique New York State regulation be repealed.

Thank you for your consideration of the view of the New York State breast cancer community.

Sincerely,

Geri Barish

Executive Director  
The Long Island Breast Cancer Action Coalition

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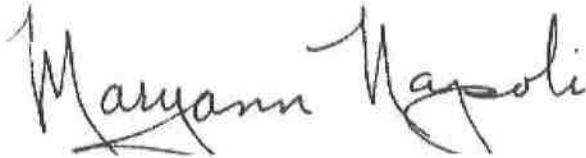
October 6, 2015

**To : New York State Public Health and Health Planning Council  
Codes, Regulations and Legislation Committee**

**RE: Repeal of NYS Health Regulation (10 NYCRR § 34-2.11(b)(1)(v)) Prohibiting Pathologists from Responding to Patient Inquires**

On behalf of the New York State patient community, the Center for Medical Consumers is urging the repeal of the regulation that prohibits pathologists from responding to patient inquiries. This regulation erroneously construes that when a pathologist responds to questions from his/her patient, that such action is a kickback activity to the physician that ordered the test. This interpretation of law entirely negates the patient's clear, undisputed right to confer with his or her own physician pathologist. Recently, the Institute of Medicine (IOM) issued a study that urged all health systems to allow greater patient engagement in the diagnostic process in order to improve health care quality and reduce the risk of error. This regulation is an illogical bar to that action. No other state has such an illogical and counter-productive prohibition. For these reasons, we urge the repeal of this regulation.

Sincerely,

A handwritten signature in black ink that reads "Maryann Napoli". The signature is written in a cursive, flowing style.

Maryann Napoli  
Associate Director