



## THE NEW YORK STATE RADIOLOGICAL SOCIETY, INC.

A CHAPTER OF THE AMERICAN COLLEGE OF RADIOLOGY

[www.nysrs.org](http://www.nysrs.org)

February 1, 2016

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

Dear Commissioner Zucker:

I am writing on behalf of the New York State Radiologic Society (NYSRS) to support the position of the College of American Pathologists and the New York Society of Pathologists to repeal 10 NYCRR §34-2.11 (b) (1) (iv) which has been interpreted to prohibit laboratories from communicating test results and pathology specimen readings directly to patients.

According to new CMS regulations on HIPPA, patients are legally allowed to request their test results directly from a laboratory. New York State Department of Health (NYS DOH) regulations were amended last year (10 NYCRR §58-1.8) to conform with the new HIPPA regulations by permitting a laboratory to provide a patient access to completed test reports upon request by a patient or the patient's representative. Prior to these changes, reports could not be issued to patients except with the written consent of a physician.

Despite the changes in HIPPA and NYS DOH regulations, New York State still prohibits pathologists from discussing test results with patients. This is inconsistent with the intent of the new federal regulations to "empower patients to track their health progress, become engaged decision makers with the guidance of health care professionals, and comply with important treatments decisions." In adopting the final rule, the Centers for Medicare and Medicaid stated that patients have a right to inspect and receive completed test reports directly from the clinical laboratory.

A study by the Institute of Medicine (IOM), "Study on Improving Diagnosis in Health Care (9-22-15), concluded that New York State regulation 10 NYCRR §34-2.11 (b) (1) (iv) prohibiting pathologist-patient conferral on the interpretation of laboratory/pathology tests impedes the promotion of quality in health care and the ability to reduce the risk of diagnostic error.

The IOM recommends that health care organizations facilitate and support collaboration among pathologists, radiologists, other diagnosticians, and treating health care professionals to improve the diagnostic testing processes. This includes the reporting and communication of test results among health care professionals and patients.

We respectfully request that regulation 10 NYCRR §34-2.11 (b) (1) (iv) be repealed. Thank you for your consideration of this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Min".

Robert J. Min, MD, MBA  
President, NYSRS