



**Commission on
Human Rights**

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**NYC COMMISSION ON HUMAN RIGHTS ANNOUNCES SETTLEMENT WITH
LENOX HILL RADIOLOGY FOLLOWING INVESTIGATION INTO FAILURE TO
PROVIDE EQUAL ACCESS TO MAMMOGRAMS FOR PATIENTS WITH
DISABILITIES**

Commission requiring Lenox Hill Radiology to provide accessible medical equipment in line with U.S. Access Board's accessibility standards, among other changes

Women with disabilities are statistically less likely to get mammograms than women without disabilities and are three times more likely to die from breast cancer

NEW YORK – The NYC Commission on Human Rights announces a settlement with Lenox Hill Radiology following an investigation into allegations of discrimination for failure to accommodate patients with disabilities. As part of the settlement agreement, the NYC Commission on Human Rights is requiring Lenox Hill Radiology to modify the front and interior of its building at 61 East 77th Street in Manhattan to make it accessible to people with disabilities; provide equipment in line with the U.S. Access Board's accessibility standards to ensure that mammography machines are accessible; change internal scheduling, communications, and equipment purchasing policies citywide; and train staff at all its New York City locations to better accommodate patients with disabilities.

The Commission initiated an investigation into Lenox Hill Radiology after it received a letter from New York Lawyers for the Public Interest identifying accessibility issues at Lenox Hill Radiology's 77th Street location. The Commission then tested and visited the facility and verified the claims. Lenox Hill Radiology, which fully cooperated with the Commission's investigation and settlement process, is currently making the agreed upon changes and the Commission is working to ensure that other Lenox Hill Radiology facilities in New York City are accessible to people with disabilities.

“Unequal access to health screenings and medical facilities puts people with disabilities at a higher risk for disease, including illnesses that could be life-threatening if left undiagnosed and untreated,” said **Assistant Commissioner of the Law Enforcement Bureau at the NYC Commission on Human Rights, Sapna V. Raj**. “The Commission acts immediately when it learns of possible violations like these and works with entities to resolve matters so that people with disabilities get the access to the life-saving medical examinations they need to live long, healthy, and happy lives. We hope this settlement encourages health providers across the City to proactively make broad and far-reaching changes to their facilities and practices to ensure accessibility for people with disabilities and that medical manufacturers everywhere create

medical equipment and devices that meet the U.S. Access Board's current accessibility standards.”

The U.S. Access Board, an independent federal agency that promotes equality for people with disabilities, issued accessibility standards for medical diagnostic equipment in January 2017 that provide design criteria to ensure that medical and diagnostic equipment, including mammography machines, are accessible to people with disabilities. Although the U.S. Access Board has authority to issue standards, the standards do not become mandatory until an enforcing authority, such as the NYC Commission on Human Rights, requires entities to adopt them.

“Access to healthcare is a basic human right. Without accessible health care facilities and the necessary medical equipment, people with disabilities could incur undiagnosed and life-threatening diseases,” said **Commissioner of the Mayor's Office for People with Disabilities, Victor Calise**. “We are pleased to see that Lenox Hill Radiology worked closely with the NYC Commission on Human Rights to take the necessary steps to ensure the needs of people with disabilities will be met.”

The New York Lawyers for the Public Interest's letter to the Commission noted possible violations and described the experience of Susan Scheer, a long-time disability rights activist who experienced great difficulty when attempting to get a mammogram at Lenox Hill Radiology's main office at 61 East 77th Street in Manhattan.

When Ms. Scheer, who requires the use of a wheelchair, went in for a mammogram, she was forced to change in an open, non-private room where the radiology equipment was located because the private changing room was too small to accommodate her wheelchair. Ms. Scheer also experienced extreme pain and humiliation during the examination due to the lack of accessibility of their mammography machine, in addition to the typical discomfort of getting a mammogram. Because the mammography machine would not lower far enough, Ms. Scheer was forced to contort herself into a painful position and was asked to stand on one leg during the exam, which due to her disability, caused her extreme pain and discomfort that lasted for days afterward. Ultimately, despite her suffering, Ms. Scheer believed her exam images were inaccurate because she could not contort herself into the requested position. Staff were also unable to direct Ms. Scheer to an accessible Lenox Hill Radiology facility when she followed to make another appointment.

“As a woman who uses a wheelchair, my experience trying to obtain a mammogram was frustrating and embarrassing. More importantly, it placed my life at risk,” said **Susan Scheer, who reported the discrimination**. “No woman with a disability should have to sacrifice her dignity to obtain a mammogram. When we don't feel welcome, or our accessibility needs aren't accommodated, we risk missing out on the early detection and treatment of breast cancer that can save our lives. I hope that every hospital and radiology facility in New York City will see this settlement as an opportunity to review their own accommodation policies and quickly take whatever steps are necessary to ensure that they are meeting both the letter and spirit of the Law.”

The Commission found several violations of the NYC Human Rights Law disability protections during its investigation of Lenox Hill Radiology, which the Commission is requiring Lenox Hill Radiology to fix in a settlement agreement. It is illegal in New York City for employers, housing providers, and places of public accommodation, including doctors' offices and hospitals, to discriminate against people with disabilities by denying them access to employment, housing, and goods and services or by denying them reasonable accommodations.

In a settlement agreement, the Commission is requiring Lenox Hill Radiology to:

- **Modify the exterior and interior of their main building** at 61 East 77th Street in Manhattan to provide equal and independent access to people with disabilities, including constructing a ramp at their main entrance, modifying the slope of a ramp in their lobby, and redesigning or relocating their Mammography Room, Dexa Room, and Ultrasound Room to provide adequate turn-around space for people using wheelchairs;
- **Provide equipment in line with U.S. Access Board's accessibility standards to make examinations accessible to people with disabilities**, including an adjustable mammography chair, foam positioning devices to provide stabilization during imaging, a mobile overhead lift to remain onsite, and change their equipment purchasing policy to ensure all future purchased equipment is accessible;
- **Change scheduling, communications, and equipment purchasing policies** at facilities citywide to improve interactions with patients with disabilities, including a script that elicits information from patients about whether they will need an accommodation for a disability and how to best assist patients with accommodations; and
- **Create and conduct a scheduling training and disability awareness training** for all Lenox Hill Radiology staff citywide to educate them on how to accommodate and work with patients with disabilities.

According to estimates, 1 in 8 women will develop breast cancer in her lifetime. Although women with disabilities have the same incidences of breast cancer as women without disabilities, they are statistically less likely to get a mammogram and are three times as likely to die from breast cancer, studies show. According to the Center for Disease Control, only 61 percent of women with a disability aged 50 to 74 have had a mammogram in the past two years compared to 75 percent of women without a disability. Currently, 1 in 8 New Yorkers (or 1 million people) are living with a disability according to the Mayor's Office for People with Disabilities.

Access to buildings and services can be a life or death situation for people with disabilities in New York City, which is why the NYC Commission on Human Rights intervenes early when it learns of alleged acts of discrimination based on disability. The Commission's Project Equal Access works with businesses, housing providers, and public accommodations to make facilities accessible to people with disabilities before the matter becomes a legal matter, including installing ramps, renovating bathrooms and other areas to make them accessible, installing electronic doors, grab bars and handrails, and training staff on how to accommodate people with

disabilities. In New York City, entities are required to make reasonable accommodations for people with disabilities unless the accommodation causes them an undue hardship.

In 2017, the Commission negotiated 216 pre-enforcement modifications on behalf of people with disabilities. If an entity is unwilling to make a reasonable accommodation, the Commission takes enforcement action to ensure compliance with the NYC Human Rights Law. Over the last two years, the Commission increased its investigations into disability discrimination by 20 percent, filing 547 new investigations. In 2017, disability discrimination was the largest area of complaint at the Commission.

If you or someone you know believes they are the victim of disability discrimination, including being denied access to buildings or programs or denied a reasonable accommodation, call 311 and ask for NYC Commission on Human Rights or call the Commission's Infoline at 718-722-3131. Reports may also be filed anonymously. People may also report discrimination on the Commission's [website](#).

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“Being able to get a mammography is, without exaggeration, a matter of life and death, yet what Ms. Scheer experienced at Lenox Hill has long been the norm for women with disabilities,” said **Chief Operating Office at Independence Care System, Regina Estela**. “Very often, facilities and equipment are not accessible, staff are not trained in disability-competent care, and patients with disabilities endure pain and humiliation, only to receive inaccurate or inconclusive test results. This settlement is an important step in making an essential women’s health service accessible at Lenox Hill Radiology’s facilities and, equally important, in reminding all healthcare providers of their obligation to proactively accommodate this large and growing population.”

“When people with disabilities are denied access to medical care because of inaccessible buildings or equipment, they face the untenable choice between addressing the problem and maintaining their relationship with their medical provider,” said **Director of the Disability Justice Program at the New York Lawyers for the Public Interest, Ruth Lowenkron**. “Vindicating one’s rights must not come at the expense of continuity of care. New York Lawyers for the Public Interest is grateful that the Commission can investigate and remedy such medical access problems, while preserving patient anonymity. We applaud the Commission’s work in ensuring accessibility for all at Lenox Hill Radiology.”

“Disparities in access to quality healthcare are a matter of life and death, particularly for people with disabilities, women of color, and immigrants,” said **President and CEO of The New York Women’s Foundation, Ana Oliveira**. “We commend the NYC Commission on Human Rights for taking intentional steps to address this issue specifically as it pertains to patients with disabilities, with their recent settlement with Lenox Hill Radiology. At The New York Women’s Foundation, we know that a woman’s health and overall well-being is directly connected to her economic security and ability to provide for herself and her family. We must remain vigilant in our efforts to ensure that people with disabilities have full access to quality healthcare that meets all of their needs.”