

TESTIMONY OF THE HON. ROSA L. DELAURO
HOUSE ENERGY AND COMMERCE COMMITTEE, SUBCOMMITTEE ON HEALTH
BREAST CANCER HEARING
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Good morning and thank you, Chairman Pallone and Ranking Member Deal, for hosting this event today, along with the entire Subcommittee on Health of the Energy and Commerce Committee.

And thanks to our distinguished panelists for being here to testify on the legislation before us today. My colleagues – Congresswoman Wasserman-Schultz, Congresswoman Castor and Congressman Nadler – Dr. Stephen Taplin of the National Cancer Institute, Dr. Otis Brawley of the American Cancer Society, Jenny Luray, President of the Susan G. Komen for the Cure Advocacy Alliance, Fran Visco, President of the National Breast Cancer Coalition, and Dr. Marisa Weiss, founder of Breastcancer.org.

Thanks to all of you for your continued advocacy and hard work on this important issue. It is an honor to come before you to discuss one aspect of breast cancer care in America today.

Over thirteen years ago, Dr. Kristen Zarfos, a Connecticut breast surgeon, told me that HMOs were forcing her to discharge her patients before they were ready – sometimes just hours after mastectomy surgery. As Dr. Zarfos testified before this committee last year, insurers suddenly refused to pay for a reasonable hospital stay regardless of any underlying or complex medical problems patients might have, such as diabetes or heart disease. And we know this is still happening. Patients continue to be discharged with no consideration for adverse reactions to anesthesia, post operative pain, or even whether they are awake enough to understand their discharge instructions.

At an Energy & Commerce subcommittee hearing last year, breast cancer patient Alva Williams testified that she had a mastectomy on March 6, 2006, and was sent home several hours after surgery. Her insurance company would not cover an overnight stay. Ms. Williams' family did not receive proper training on how to care for her, and she developed an infection in the incisions. Recovering from the infection caused Ms. Williams' chemotherapy treatments to be delayed by six weeks.

Another woman from Arizona recently shared her story on the Lifetime TV website: She writes, "I had a double bilateral mastectomy in June of this year. I was discharged with in two hours after surgery. I had severe complications that later resulted in being re admitted to the hospital with in the first week post surgery."

A Kansas woman had this story to tell: "I was diagnosed in May of 2006... I had a modified radical mastectomy with full lymph node removal. I was in the hospital one night... My husband is an Internist and he was shocked that one night was standard of

care for mastectomies. My recovery was very difficult even though my care giver was my husband, a physician!"

All across the nation women continue to suffer the same way these women suffered. And all across this nation, people everywhere are saying: "No More."

That is what the Breast Cancer Patient Protection Act is all about. It says that when it comes to a mastectomy, adequate recovery time in the hospital should not be negotiable. The last thing any woman should be doing at that time is fighting with her insurance company.

This bill *does not* mandate a 48 hour hospital stay if a patient chooses to go home sooner, nor does it set 48 hours as a maximum amount of time a woman can stay in the hospital. It simply ensures that any decision in favor of a shorter or longer hospital stay will be made by the patient and her doctor, and not an insurance company.

And, we do know that being in the hospital is not for everybody. But it is important to note that successful outpatient mastectomy programs have been extremely careful to empower their patients through education, carefully monitor outcomes, and work intensively to minimize complications.

Unfortunately, this is not the standard of care that many women are getting right now. Take, for example, the woman who was sent home only 23 hours after undergoing a bilateral mastectomy in September 2008 -- who noted that "any complications would have been handled by me, myself, and I."

A Lifetime Television petition calling for the Breast Cancer Patient Protection Act's passage has been signed nearly 24 million times. Last year, 421 Members of Congress voted to enact this legislation. The current bill has 236 co-sponsors in the House and 17 cosponsors for Senator Snowe and Landrieu's version in the Senate. In short, there is strong grassroots and bipartisan support for these most basic patient protections.

This legislation also enjoys the support of respected patient organizations including the Susan G. Komen for the Cure Advocacy Alliance, American Cancer Society, Breast Cancer Network of Strength, Breastcancer.org, and many others.

Most of the 192,000 breast cancer patients diagnosed this year will undergo surgery such as lumpectomy or mastectomy. Research has shown that the treatment a woman receives for breast cancer varies by the type of insurance she has and what state she lives in. And twenty states have enacted protections for patients similar to this bill. But the quality and type of health care provided to patients should not depend on what their insurance covers or what state they live in.

Simply put, it is time we put these decisions back into the hands of patients and their doctors, not insurance companies. Of course, insurers would prefer we not set an explicit standard for length of stay after a mastectomy. But for patient after patient, they

already use proprietary standards that may have little to do with clinical necessity to decide treatment. As Wendell Potter testified to the House Oversight and Government Reform subcommittee last month, "These are terms of art and contractual terms that are used like rapiers to limit and deny care."

H.R. 1691 also includes other important protections for patients facing breast cancer, including access to second opinions, coverage of radiation therapy for women choosing a lumpectomy, and access to a third party review process before a rescission can take place. Along those lines, I am proud to support broader health reform legislation that would ban rescissions and institute numerous other insurance market reforms that protect and empower patients.

I urge my colleagues to support the Breast Cancer Patient Protection Act and help put a stop to these practices. We have a tremendous opportunity to meet our obligations as a Congress and nation, to make it clear: we value women's health. Thank you.