

Prepared Statement of Ranking Member Richard Burr
Nomination of Xavier Becerra, U.S. Secretary of Health and Human Services

February 23, 2021

Good morning, Chair Murray. Thank you for scheduling this hearing to consider the nomination of Xavier Becerra to be the Secretary of Health and Human Services.

As I said at our first hearing, Sen. Murray and I have worked together on a range of health care issues, including FDA user fee agreements, critical public health reauthorizations, and efforts to fortify our nation's public health preparedness framework. I look forward to our continued collaboration to help American patients and families, and believe that the key to our success in addressing the most pressing health care challenges facing our country will be strong leadership from this Committee, working together in a bipartisan fashion with the new administration.

Mr. Becerra, thank you for being here with us today. I want to take a moment to recall the HELP Committee hearing for former HHS Secretary Silvia Burwell. Ms. Burwell came before the Committee as an Obama administration nominee, not as nominee of my own political party. At the end of my five minutes of questions, I informed my colleagues that I would be supporting Ms. Burwell,

and urged them to do the same. I provided a key reason for this support – her portfolio of expertise in addressing the unique challenges faced by HHS. She held a deep knowledge of the issues at hand and had unquestionable experience in the management and execution of complex health care issues facing our country. The need for extensive health care experience at the helm of HHS has never been more important.

I hear regularly from families in North Carolina about the problems caused by federal overreach into their health care choices. A decade after the passage of the Affordable Care Act, people in my state are still burdened by its policies and struggling to make ends meet as result.

Not only have you supported the major expansion of the Affordable Care Act, but you have advocated for *more* government interference between Americans and their doctors. During your time in Congress, you supported Medicare-for-All proposals, which would end private insurance and remove the private sector from health care coverage -- denying the American people the innovative and actually affordable health care coverage models it offers. As exemplified by the COVID-19 pandemic, with the extraordinary development of vaccines and treatments, the input of the private sector is vital to solving the most pressing health care issues facing our country, and cannot be ignored or undervalued.

Over the last year, the pandemic caused by the novel coronavirus has brought the public health agencies under the jurisdiction of this Committee to the forefront of American debate. January 31st marked one year since Secretary Alex Azar declared a public health emergency with only a handful COVID-19 cases in the United States. The framework this Committee developed under the Pandemic and All-Hazards Preparedness Act – which we all call PAHPA - and its continued bipartisan reauthorizations laid out a roadmap for our response, and allowed for early prioritization of the development of countermeasures to identify, mitigate, treat, and prevent an emerging disease like COVID-19.

This important law created BARDA, the Biomedical Advanced Research and Development Authority, to help bring countermeasures rapidly through the risky phases of drug development. We recently received a disturbing report about the Obama Administration’s mismanagement of this critical agency from the Office of the Special Counsel, and I will be examining that very closely to ensure that such blatant failures don’t happen again under the Biden Administration. BARDA’s capabilities, with assistance from other federal partners, have allowed us to reach yet another critical juncture in our COVID-19 response – a life-saving vaccine. This effort is making history and breaking scientific ground, bringing a vaccine to Americans, and the world, in a matter of months. American innovation and ingenuity are rescuing us from the devastation of a global pandemic.

Mr. Becerra, your actions as the Attorney General for California and during your tenure in Congress reveal your disregard for the value of this ingenuity, calling for policies that would undo decades of investment in, and support of, American biomedical research. The incentive to innovate has been, and always will be, the linchpin in the ability to bring hope to American patients. Countermeasures for COVID-19, platform technologies to treat a multitude of rare diseases, and breakthroughs to delay the devastating effects of Alzheimer's and dementia will all come before this administration.

An HHS Secretary nominee that has demanded manufacturers hand over the protections for their inventions and discouraged the development of treatments for life-threatening diseases should be cause for serious concern for all members of this Committee and the Senate. As a Congressman, you advocated for the use of the "march-in right" authority for drugs with priority review designation at the FDA and signed a letter urging HHS to use this authority to address increasing drug prices. But the Bayh-Dole Act is very prescribed on the criteria for exercising "march-in" rights and former Senators Bayh and Dole themselves said that they did not intend government to set prices and intentionally omitted referencing pricing in the law. Francis Collins, the Director of the NIH serving now 3 presidents and someone who is widely respected on both sides of the aisle has rejected this approach, and as usual we would all be wise to listen to him. As a

lawyer and a former legislator you should know better than to try to distort the law beyond reason for a preferred policy objective.

In the midst of a pandemic, the HHS Secretary should not be someone who advocates for this deliberate misuse of the law or discourages the development of treatments for life-threatening diseases. The utilization of march-in rights in these circumstances, as you have historically advocated, can have a chilling effect on countermeasure development and the next generation of treatments and cures for Americans.

As I look at the current status of the pandemic, I believe we must identify the areas that were a success in our framework, those that need work, and the challenges we did not anticipate in our earlier efforts. And it's important for all of us to agree that there were successes and failures in the past year, so that we can learn from both. Accelerating the administration of COVID vaccines and broadly applying what we have learned during this pandemic are complex health care challenges, but they are only the first set of tasks the next leader of HHS will face. Following the immediate response, the Department will play a role in modernizing our public health preparedness programs, memorializing the efficiencies gained in our regulatory agencies, and in building the architecture of our health care delivery systems for the future.

These tasks will each require sound policy experience. By the time he arrived as HHS Secretary, Alex Azar had an extensive career in the biopharmaceutical sector and previously served in a leadership role at HHS. Secretary Price was a physician. Secretary Burwell tackled difficult health care issues during her tenure at the White House Budget Office, and Secretary Sebelius served her state of Kansas as an Insurance Commissioner. This is the level of expertise that the American people deserve and that the continued response to the pandemic demands.

I am deeply concerned that your time in Congress and as California Attorney General leaves you woefully unprepared to meaningfully engage in the set of health care challenges that require our full attention. I do not believe that you have the necessary experience or skills to do this job at this moment in time. I do not believe that you have the appropriate respect for private sector innovation and intellectual property needed to bring more exciting treatments and cures to market to save lives.

Mr. Becerra, I look forward to your testimony today, and again before the Finance Committee. Your resume and ideological positions raise a great many problems for such an important position and you have a lot to do to gain the bipartisan support that your predecessors earned and deserved.