

United States Senate
WASHINGTON, DC 20510

May 13, 2020

The Honorable Lamar Alexander
Chairman
Committee on Health, Education, Labor, and Pensions
U.S. Senate
Washington, DC 20510

The Honorable Patty Murray
Ranking Member
Committee on Health, Education, Labor, and Pensions
U.S. Senate
Washington, DC 20510

Dear Chairman Alexander and Ranking Member Murray:

We write to request a U.S. Senate Committee on Health, Education, Labor and Pensions (HELP) hearing in order to hear testimony from and question Dr. Rick Bright, former Director of the Biomedical Advanced Research and Development Authority (BARDA). BARDA is an office within the U.S. Department of Health and Human Services (HHS) that is partly responsible for accelerating development and discovery of vaccines and other medical countermeasures. Its work is critical for mitigating the coronavirus disease 2019 (COVID-19) pandemic.

Dr. Bright filed a whistleblower complaint with the U.S. Office of Special Counsel on May 5, 2020. In this complaint, Dr. Bright reported that, during his tenure as Director of BARDA, he witnessed how the Trump Administration, including top officials such as HHS Secretary Alex Azar, failed to respond to the emerging threat of COVID-19, and then demoted him as he sought to improve the response:

[Dr. Bright] began pushing HHS leadership to obtain sequencing and virus samples from China, to no avail. In addition, Dr. Bright also began urgently pressing HHS officials to provide necessary resources to begin vaccine, drug and diagnostic development to combat COVID-19. Again, to no avail. Rather than deferring to Dr. Bright's expertise and judgment and heeding his calls for urgent action, HHS leadership criticized him for his efforts and removed him from meetings going forward.¹

According to his whistleblower report, Dr. Bright continued to raise concerns with HHS leadership about an imminent mask shortage and about the need to accelerate the development of tests and treatments for the virus, but HHS leadership repeatedly refused to take his warnings

¹ Rick Bright, "Complaint of Prohibited Personnel Practice or Other Prohibited Activity," May 5, 2020, p. 16, https://www.kmblegal.com/sites/default/files/NEW%20R.%20Bright%20OSC%20Complaint_Redacted.pdf.

seriously.² Instead, they tried to get him to “fall into line with the Administration’s directive to promote the broad use of chloroquine and hydroxychloroquine and to award lucrative contracts for these and other drugs even though they lacked scientific merit and had not received prior scientific vetting.”³ After experts within BARDA raised concerns about the clinical benefit of chloroquine and hydroxychloroquine and potential problems associated with a donation of the drugs, HHS nevertheless accepted the donation⁴ and an HHS official wrote an email saying, “[White House] call. Really want to flood Ny and NJ with treatment courses” of the drug.⁵ After raising his concerns about undue political influence on decision-making at HHS, Dr. Bright was removed from his post, and on April 20, 2020, he was informed that he had been involuntarily transferred to a more limited position.⁶

Dr. Bright’s attorneys reported on Friday, May 8, 2020, that the Office of Special Counsel, after reviewing the complaint, concluded that Dr. Bright “was removed from his post last month for retaliatory reasons and plans to recommend the Department of Health and Human Services reinstate him while it investigates.”⁷

We are deeply concerned by the degree to which political interference appears to be corrupting and slowing the administration’s response to this health crisis, and by this report of retaliatory behavior against those who try to address these failures. In order to make safe and effective COVID-19 treatments and vaccines available as quickly as possible, it is critical that BARDA’s decisions are driven by data and by science, rather than by politics. Dr. Bright’s whistleblower complaint gives us little faith that BARDA—especially after Dr. Bright’s ouster—or any other federal agency are currently free to operate in an unbiased manner.

To gain insight into the operations of BARDA and HHS, and to assess the overall administration response to the COVID-19 pandemic, members of the HELP Committee must be given the chance to pose questions to Dr. Bright, under oath, in an open hearing.

On May 6, 2020, Chairman Alexander demurred when asked if Dr. Bright should appear before the HELP Committee, saying, “That’s a different issue... We’re involved in testing, treatment, and vaccines.”⁸ But Dr. Bright’s whistleblower complaint raises serious concerns about the ability of the federal government to address “testing, treatment, and vaccines,” issues which

² *See Id.*, p. 17.

³ *Id.*, p. 7.

⁴ U.S. Department of Health and Human Services, “HHS accepts donations of medicine to Strategic National Stockpile as possible treatments for COVID-19 patients,” press release, March 29, 2020, <https://www.hhs.gov/about/news/2020/03/29/hhs-accepts-donations-of-medicine-to-strategic-national-stockpile-as-possible-treatments-for-covid-19-patients.html>.

⁵ Rick Bright, “Complaint of Prohibited Personnel Practice or Other Prohibited Activity, Exhibit 60,” May 5, 2020, <https://www.washingtonpost.com/context/exhibits-submitted-as-part-of-rick-bright-s-whistleblower-complaint/8b40193d-fe03-44f3-806e-34b7f680ebcc/>.

⁶ Rick Bright, “Complaint of Prohibited Personnel Practice or Other Prohibited Activity,” May 5, 2020, p. 48, https://www.kmblegal.com/sites/default/files/NEW%20R.%20Bright%20OSC%20Complaint_Redacted.pdf.

⁷ Washington Post, “Watchdog office says ‘reasonable grounds’ to believe ouster of vaccine official was retaliatory, his lawyers say,” Yasmeeen Abutaleb, May 8, 2020, <https://www.washingtonpost.com/health/2020/05/08/office-special-counsel-says-reasonable-grounds-believe-vaccine-officials-ouster-was-retaliatory-lawyers-say/>.

⁸ Politico, “Republican Senate chairman rejects calls for Rick Bright to testify,” Andrew Desiderio, May 6, 2020, <https://www.politico.com/news/2020/05/06/republican-senate-expert-coronavirus-240129>.

Chairman Alexander noted are within HELP's purview. Senate Majority Whip John Thune also indicated that it might be appropriate for Dr. Bright to testify before HELP, saying, "He has a really important position in the administration, and that's under a cloud," and that Congressional oversight committees "have every right to examine" the issues raised by Dr. Bright.⁹ If the HELP Committee does not hold a hearing in which Dr. Bright gives testimony and responds to member questioning, it would be abdicating its duty to conduct oversight over the administration's response to the worst public health crisis in over a century, risking American lives, and delaying the economic recovery that cannot be fully complete until we resolve this public health crisis. We therefore urge you to hold a full committee hearing with Dr. Bright so that we can address the issues raised by his whistleblower complaint.

Thank you for your consideration of this request.

Sincerely,

Elizabeth Warren
United States Senator

Tammy Baldwin
United States Senator

Robert P. Casey, Jr.
United States Senator

Tim Kaine
United States Senator

Christopher S. Murphy
United States Senator

⁹ *Id.*