

**NOMINATIONS OF JOSHUA GOTBAUM
AND RICHARD SORIAN**

HEARING

BEFORE THE

**COMMITTEE ON FINANCE
UNITED STATES SENATE**

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

ON THE

NOMINATIONS OF

JOSHUA GOTBAUM, TO BE DIRECTOR OF THE PENSION BENEFIT GUAR-
ANTY CORPORATION; AND RICHARD SORIAN, TO BE ASSISTANT SEC-
RETARY FOR PUBLIC AFFAIRS, DEPARTMENT OF HEALTH AND
HUMAN SERVICES

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**NOMINATIONS OF JOSHUA GOTBAUM,
TO BE DIRECTOR OF THE PENSION BENEFIT
GUARANTY CORPORATION; AND RICHARD
SORIAN, TO BE ASSISTANT SECRETARY
FOR PUBLIC AFFAIRS, DEPARTMENT
OF HEALTH AND HUMAN SERVICES**

WEDNESDAY, MAY 26, 2010

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:09 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senator Grassley.

Also present: Democratic Staff: Bill Dauster, Deputy Staff Director and General Counsel; Ayesha Khanna, International Trade Counsel; Liz Fowler, Senior Counsel to the Chairman and Chief Health Counsel; and Rory Murphy, International Trade Analyst. Republican Staff: Mark Hayes, Health Policy Director and Chief Health Counsel; Michael Park, Health Policy Counsel; Sue Walden, Health Policy Counsel; and Nick Wyatt, Tax and Nomination Professional Staff Member.

**OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR
FROM MONTANA, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. The hearing will come to order.

Congressman Horace Mann cautioned, "More will sometimes be demanded of you than is reasonable. Bear it meekly, and exhaust your time and strength in performing your duties."

Mr. Sorian, Mr. Gotbaum, these are unreasonably demanding times, and yet your Nation calls upon you to exhaust your time and strength to perform new duties.

Mr. Sorian, you enter the Department of Health and Human Services when it is implementing landmark health care reform. Mr. Gotbaum, you will direct the Pension Benefit Guaranty Corporation when millions of Americans have seen their pension plan funds depleted by the economic downturn. The tasks that confront you both will demand much. This committee asks you to dedicate your time and strength to perform your tasks well.

Mr. Sorian, President Obama has nominated you to be Assistant Secretary of Public Affairs at the Department of Health and Human Services. At HHS, you will be responsible for helping

Americans navigate the benefits of the new health care reform legislation. You will serve as the point person on the public affairs matters for the Department. Among these matters will be web and new media and broadcast communications.

You are well-suited for the job. Your work with the National Committee for Quality Assurance and the Center for Studying Health System Change has given you a solid grounding. I also note your experience as the editor of a national health care trade journal, and you have authored three books.

Your job will be to help explain the health care reform bill. Note, I said explain, I did not say sell. What is needed is an honest explanation of what is in the bill and what is not. Information needs to come from a reliable source, it needs to come in plain English, and it needs to come without jargon, without spin.

HHS can be that trusted source. In your new role, you will direct public information from HHS. You will also direct a special outreach division to get the word out, not just about health reform, but also about pandemic events and public health emergencies. You are an excellent choice for the job, and I look forward to working with you.

Mr. Gotbaum, as Director of the Pension Benefit Guaranty Corporation, you will be responsible for protecting the pensions and livelihoods of millions of Americans. As Americans recover from this economic crisis, your task becomes even more important. The PBGC staff has played an important and much-appreciated role in developing part of the jobs legislation that Congress is considering this week. This legislation would provide relief to defined benefit plans in light of the economic stress facing many employers. We appreciate the technical support from PBGC and from the staff in developing this relief.

But we would also very much have appreciated the administration's views on the policy issues that we are facing. We look forward to having a Senate-confirmed PBGC Director soon to give us those views.

In particular, the PBGC will help us to address an issue facing certain multi-employer pension plans. In these plans, existing employers are paying into multi-employer plans to fund retirees and soon-to-be retirees of employers that are no longer in business. If we do not act, this burden threatens to bankrupt many large plans and employers that fund them. Mr. Gotbaum, we look forward to your counsel as we tackle this thorny problem.

Your experience has prepared you well. You spent years in the private sector helping manage and advise American companies and nonprofits. You led Hawaiian Airlines through a successful bankruptcy, and you managed the September 11 fund. You are an excellent choice for the job. I look forward to working with you in the months to come.

Today we also hope to consider the nomination of Sherry Glied to be Assistant Secretary for Planning and Evaluation at HHS. In this position, Dr. Glied will make important policy and planning decisions, and she must do so based on sound information in a manner that most benefits the American people. If we can obtain a quorum of Senators present, we will interrupt the hearing to report out Dr. Glied's nomination.

So I urge you all to dedicate yourselves to the tasks at hand. I urge you to meet the demands of the positions to which you have been nominated, and I urge you to serve America and Americans with exhaustive time and strength.

Today's panel begins with Richard Sorian, who has been nominated to be Assistant Secretary for Public Affairs at Health and Human Services and, as indicated earlier, Josh Gotbaum, nominated to be Director of the Pension Benefit Guaranty Corporation. Thank you both for coming.

As is our usual practice, your full prepared statements will be included in the record. I urge you to cut your statements down to about 5 minutes. So, let us begin with you, Mr. Sorian.

But before you begin, why don't you introduce any friends, relatives who may be here with you.

Mr. SORIAN. Thank you, Mr. Chairman. It is a pleasure to be here. I would like to introduce my brother, who has come down from New York for this hearing.

The CHAIRMAN. Sure.

Mr. SORIAN. My brother, Steven.

The CHAIRMAN. Could you stand, Steve, so we can see you? You look like brothers. [Laughter.]

Mr. SORIAN. We are told that a lot.

The CHAIRMAN. That is great. I will bet you are very proud.

Mr. SORIAN. Yes. I am proud of him. [Laughter.]

We will see about the other way around.

The CHAIRMAN. Right. Right. All right. Why don't you proceed?

STATEMENT OF RICHARD SORIAN, NOMINATED TO BE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS, DEPARTMENT OF HEALTH AND HUMAN SERVICES, WASHINGTON, DC

Mr. SORIAN. Chairman Baucus, I appreciate your generous remarks, and I really pick up on your theme that this is a very important time in our Nation's history. It is not often that a department like HHS gets an opportunity to implement a landmark piece of legislation like the Affordable Care Act that you and your colleagues have so carefully crafted, and I look forward to being able to work on that, if I am confirmed by the Senate.

I also want to thank Senator Grassley and the other members of the committee for their kindness in preparation for this hearing. It is an honor to be here. It is not often that a working journalist winds up on the other side of the press table in this committee, but my original career was as a working journalist covering health care policy, so usually I was back there.

I am very grateful to President Obama and Secretary Sebelius for providing me with the opportunity to serve the American people at this time. HHS really is the people's department. It serves so many different purposes, that it really touches the lives of almost every American in one way or another. It is a place that I will be honored to serve, if confirmed.

Every day you walk into the building down on Independence Avenue, you get to see the words of Senator Humphrey that really crystallize the mission of the Department when he said, "The moral test of government is how government treats those who are at the dawn of life, our children; those who are in the twilight of life, our

elderly; and those who are in the shadows of life, the sick, the needy, and the handicapped.” You do not need much more inspiration to go to work every day and get the job done.

As you mentioned, the Assistant Secretary for Public Affairs serves as the Secretary’s principal counsel on public affairs and conducts national public affairs programs, provides centralized leadership for the Department and its many agencies and divisions, and also administers the Freedom of Information Act and the Privacy Act. So, very important parts of the Department are located there.

I believe that my career has prepared me for these challenges. As I mentioned, I began my career as a working journalist, covering health care policy here in Washington and around the country. I then served, from 1993 to 1998, in the Department as a senior advisor to Secretary Donna Shalala on a number of different issues, including health care and health care quality improvement.

I spent time as a researcher studying health care policy, and particularly the best way to communicate complicated health care policy questions to the public and to the people who have to implement those policies. As you mentioned, I was honored to serve at the National Committee for Quality Assurance and pursue their mission to improve the quality of health care.

Clearly, if I am confirmed, the major priority for the Department will also be the major priority for the Public Affairs division, and that is implementing and explaining the Affordable Care Act to the American people. The laws that you wrote must be implemented in a manner that fulfills the intent and the needs of the people for whom they are written. While Public Affairs does not develop or set policy, it plays a critical role in translating those policies to the public and to the Nation as a whole.

I think our Nation’s recent experience with the H1N1 flu epidemic reinforces the importance of quick, accurate, and clear communication on complex issues. The ability of the government to pull together information and translate it into accessible language for the American people really helped to change what could have been a very damaging pandemic in this country.

Today, millions of Americans who are eligible for programs like Medicaid and CHIP are not enrolled, and this committee has talked quite a bit about that. Many of them do not know they are eligible for these benefits. We do not want to repeat that with the Affordable Care Act. These benefits are real and valuable to these people, so communicating to them what their rights and their responsibilities are under the Act is vital so that they know how to access their rights, how to apply for and obtain benefits, and how to live up to the responsibilities that they have under the Act.

Fortunately, we have a number of good, solid examples of how to do that, reaching back as early as the beginning of the Medicare program, but also as recently as the Medicare Modernization Act, the Children’s Health Insurance Program, and the Balanced Budget Act. All of these were complex, multi-faceted pieces of legislation that required very clear and concise translation for the public.

We have many more tools available to us now to communicate, and I think that is a very valuable thing. But we have to worry about too much noise. If you throw information at the public in too

many different ways from too many different directions, you can confuse people, so I think one of our jobs is going to be to make sure that we use the right vehicles for the right audiences.

If I am confirmed, I look forward to working with this committee, with the members of the Senate and the House, in any way that I can to advance these important programs.

Thank you again, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Sorian.

[The prepared statement of Mr. Sorian appears in the appendix.]

The CHAIRMAN. Mr. Gotbaum, what family do you have here? We are very honored to meet them.

Mr. GOTBAUM. Thank you, Mr. Chairman. I am joined by my wife, Joyce.

The CHAIRMAN. Joyce. Great. Good.

Mr. GOTBAUM. Thank you.

The CHAIRMAN. Thank you. So you are just as proud of Joyce as Mr. Sorian is of his brother? [Laughter.]

Mr. GOTBAUM. Yes. Actually, I would say, sir, since Joyce was willing to take me, and I suspect that Mr. Sorian's brother had no say in that matter, I am even more grateful. [Laughter.]

The CHAIRMAN. Right. Right. Well, that is right. Very well said. All right. Why don't you proceed, Mr. Gotbaum?

**STATEMENT OF HON. JOSHUA GOTBAUM, NOMINATED TO BE
DIRECTOR OF THE PENSION BENEFIT GUARANTY CORPORATION,
WASHINGTON, DC**

Mr. GOTBAUM. Thank you. Mr. Chairman, Senator Grassley, thank you very much for considering my nomination.

We all know the PBGC is going through very hard times. Its finances are entirely out of balance. Its service, despite improvements, continues to disappoint some. Its benefit levels frustrate others. And, frankly, the behavior of its previous Director called into question many of the agency's actions, even some that, done properly, would have been perfectly all right.

Yet, despite all these hard times, despite the deficits, despite the previous actions, despite the history, the PBGC is needed more than ever. As you noted, Mr. Chairman, more than 40 million Americans rely on pensions that are guaranteed by the Pension Benefit Guaranty Corporation. I would like to summarize how I might help. I am not an industry expert.

What I am is a problem-solver and a manager. I work to bring people together, to take difficult issues and face them head on, and to find solutions that are always compromises, that people can live with.

I have worked throughout the Federal Government—in five Cabinet agencies and the White House; I worked briefly in the Senate for Senator Hart—not only on policy, but also on government procurement, on government regulation, and on maintaining government's financial integrity.

I have worked across agency lines and I have worked with the Congress, and I have done so on problems as diverse as disaster relief, housing, and counter-terrorism. Outside the government, I have been a financial advisor to both businesses and unions, work-

ing through hard times, developing compromises, developing solutions, et cetera.

You mentioned my experience at the September 11 fund, and I want to note that the thing that I am proudest of about that effort was that, by working with dozens of other nonprofits and finding ways to work together, we helped more than 100,000 people begin to rebuild their lives. And—and I understand this is quite important to this committee and to the agency—we did so in a way that set new standards for public accountability.

Since then, I have continued to work in distressed situations. Hawaiian Airlines was very controversial, but we found a way out that strengthened the airline, that gave the creditors 100 cents on the dollar, that gave the stockholders gains instead of losses, that gave labor contracts raises—and our pension plan was not terminated.

So having said that the modus operandi that I would bring to the agency is to try to work and develop consensus, I think it is also important to say to you, since I am asking for your confirmation and your support, that there are some basic principles that I would follow. One is that retirement security is essential, that defined benefit plans in particular, which for many people are a better way of achieving it, have to be preserved. Also, the PBGC cannot choose between meeting the professional standards of industry and the highest standards of government; it has to do both. The PBGC ought to provide its services with a sense of compassion.

We have to address the critical issues facing the PBGC and facing pensions—funding relief, investment policy, and the deficit—directly and realistically, and working with the Congress and the other stakeholders is essential to doing so. This is not something that the agency can, should, or would do alone.

You have entrusted the PBGC with very important responsibilities: protecting pensions of more than 40 million people and being an advocate for retirement security, and I look forward to being able to provide the views and advice that you have asked for, Mr. Chairman.

But one thing we should recognize is that there is no universally accepted plan for advancing this mission, and there is no universally accepted plan for dealing with the issues that the agency faces. What is clear is that the agency cannot do any of them alone, because the fact is that almost none of the factors that affects the fate of the PBGC is controlled by the PBGC.

Plan sponsors decide what benefits to offer, what investments to make, and when to terminate. The Congress determines PBGC's benefits, premiums, and budget. The board determines the investment policy, and the markets then determine what the returns will be on that investment policy, so reaching these agreements is going to require the engagement of the Congress, of the administration, and all the other stakeholders. It will require a combination of both principles and practicality, and, if you confirm me, I would be honored to help.

Thank you very much for this opportunity. I very much appreciate that you were willing to consider this nomination, and I look forward to engaging and answering your questions.

The CHAIRMAN. Thank you very, very much.

[The prepared statement of Mr. Gotbaum appears in the appendix.]

The CHAIRMAN. Senator Grassley?

Senator GRASSLEY. I will put my statement in the record.

The CHAIRMAN. All right. Fine. Good.

[The prepared statement of Senator Grassley appears in the appendix.]

The CHAIRMAN. I have three standard questions that we ask of all witnesses, and I will ask them of both of you right now.

Is there anything that you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated? Mr. Gotbaum?

Mr. GOTBAUM. No.

The CHAIRMAN. Mr. Sorian?

Mr. SORIAN. No, sir.

The CHAIRMAN. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. GOTBAUM. No.

Mr. SORIAN. No.

The CHAIRMAN. Do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress, if you are confirmed?

Mr. GOTBAUM. Absolutely.

Mr. SORIAN. Yes, sir.

The CHAIRMAN. Thank you.

I will start with you, Mr. Sorian. If confirmed, you will be required to explain some pretty thorny and difficult parts of health care reform. One of these issues is the individual responsibility requirements. That is something that raises eyebrows, to say the least, and questions. It is certainly a necessary part of health care reform if health care reform is going to work. That is, if all of us in America have shared responsibility, we are all in this together.

If you could, please tell me some of your thoughts about how the Department might address what these individual responsibility requirements are and what they are not.

Mr. SORIAN. Certainly, Mr. Chairman. I think that it is important to communicate an act of this size in its pieces, but then also connect the dots for the American people. So for most Americans, there are going to be some significant benefits, but there are connected to those benefits responsibilities.

So I think you need to explain both of them to people so that they understand that, on the one hand, they will be eligible for, and can receive, some important protections and affordability for health insurance, but in return they are going to need to obtain coverage by a certain date specified in the law, and that these two pieces together really provide a safety net for all Americans.

I think you need to provide that information in a variety of ways. You cannot just communicate in the old-fashioned way of, put out a press release, put out something to the newspapers, and think that everybody is going to hear that information. We have a lot of different ways to communicate, and we need to, at the core, communicate in a clear, concise, and accurate manner so that the peo-

ple who get that information can understand the pieces of the legislation that affect them. Then we have to reach people where they live, reach people where they work, where they gather. Different forms of communication work better for different populations.

Some people prefer print—I am still one of those—some people prefer the web, others turn to radio for a lot of information, television news, and a variety of other forms of communication. So we need to identify multiple ways to make sure that we reach all the different people in a way that is clear and understandable to them, not just in terms of different languages, which obviously is important, but in different approaches and different media.

The CHAIRMAN. But what are some of the new ways that are more effective now than might have been the case maybe 3, 4, 5, 6 years ago? When you think about this, well, this is exciting. I have a new idea, I have several thoughts here about how to appropriately, properly, communicate with the American public generally about not just the individual mandate, but just about health care reform more generally.

Mr. SORIAN. Well, I think it again depends on the audience you are trying to reach. If you are trying to reach younger, working age, or even college age and younger than that, putting it in print form, they are never going to see it. They go through their mail in front of the garbage can and most of it goes right into the trash. So you need to look at the web, look at the variety of ways. Blogs are a very effective way, webcasts are an extremely effective way. Young people who will not watch the news, except maybe the Daily Show, will watch a webcast on their laptops, on their iPods, all those kinds of things that they are much more attuned to and trust as ways to get information, so you need to use the web in a variety of ways. But you cannot forget the old-fashioned approaches to information for their parents.

So, if you are trying to reach young people, you do it electronically. You do it in a variety of ways that reach them through various devices that they all carry around. But you want their parents to also know what their children, whatever age they might be, what rights and responsibilities they have, because they are the ones who are going to remember to remind their kids, did you sign up for this program, do you know that you are eligible for that program, did you get your flu shots, things of that sort. So you never want to do it just one way, but you think about the population you are trying to reach, and you tailor it to that.

The CHAIRMAN. But how can you assure us that you are going to be straightforward and not, as I said earlier, try to sell it, but rather explain?

Mr. SORIAN. Sure. Well, when I think about how I go about things, I always go back, the way many people do, to my original training. So my original training was as a journalist. That was really my first love of professional life. So I think of myself, if you will pardon the expression, as a Dragnet kind of guy: “Just the facts.”

Provide the information, make it clear, make it concise, but just the facts, and let people take those facts, absorb them, ask questions, and then have a continuous loop. One of the nice things about the web is, you can get feedback rather quickly. If people are

not understanding what you are saying or have a lot more questions, you get them really quickly, and you then are able to turn it around and start answering more questions, but also fix the communication that you may not have gotten exactly right the first time.

The CHAIRMAN. Thank you. I will have more questions for you, Mr. Gotbaum, but right now I will turn to Senator Grassley.

Senator GRASSLEY. Thank you very much.

Mr. Sorian, you are responsible for communicating Department activities to the public, including fully informing Medicare beneficiaries of the effects the enacted law will have on them. You especially would have a critical role in an administration that claims to have an agenda of transparency and open government, so I have questions to get a sense of your commitment to these responsibilities.

The first question is, do you believe that the Department has the duty to inform the public of the effect that recently passed laws have on the public?

Mr. SORIAN. Yes, sir.

Senator GRASSLEY. And as part of this duty, do you believe that this entails fully informing the public?

Mr. SORIAN. Yes, sir.

Senator GRASSLEY. Do you agree that communications to the public should not conflict or disregard objective findings made by other Department officials, like Medicare's Chief Actuary, as an example?

Mr. SORIAN. Yes.

Senator GRASSLEY. Do you agree that these communications to the public should not be limited only to information that is politically advantageous to the administration?

Mr. SORIAN. Yes, sir.

Senator GRASSLEY. Do you agree that these communications to the public should not be misleading?

Mr. SORIAN. Yes.

Senator GRASSLEY. And, if confirmed, do you commit that the Department communications to the public will be for the purpose of fully informing the public and not for propaganda purposes?

Mr. SORIAN. Absolutely, sir.

Senator GRASSLEY. Thank you.

I have questions for both in regard to congressional oversight, both Mr. Sorian and Mr. Gotbaum. Oversight of the Department of Health and Human Services and PBGC programs and activities requires the review of documents and interviews with agency officials and other employees to inform our work. In furtherance of our oversight responsibilities, we often, in Congress, ask the Government Accountability Office to evaluate HHS and PBGC programs and activities. In addition, we may ask HHS and PBGC's Office of Inspector General to follow up on complaints regarding specific agencies and/or programs. So, questions to both of you: would you commit to working with Congress, GAO, and the HHS and PBGC OIGs in a timely and constructive manner to address the oversight and other needs of Congress, and will you encourage others to do so?

Mr. GOTBAUM. Yes.

Mr. SORIAN. Yes.

Senator GRASSLEY. Thank you.

For Mr. Gotbaum: would you please describe the carried interest your ethics agreement states that you will continue to hold in Blue Wolf Capital Advisors? What holdings of Blue Wolf factor into the value of your carried interest, and how will you ensure that holding this carried interest will not create a conflict of interest with the position of Director of PBGC?

Mr. GOTBAUM. Sure. Glad to do so, Senator. This came about because Blue Wolf Capital, an organization that I met and talked with, wanted to hire me as a consultant and did not have money to pay a high daily rate. So what they said is, "If you will come and work with us for a period of time, since we are just starting out, we will pay you with a piece of the equity interest in the fund, when we raise a fund, if we raise a fund, if the fund is successful." I trusted them and thought they would be successful, so I agreed to do so.

As a result, I have a small percentage of the interest they have in what is called Blue Wolf Capital Fund II. So if, as, and when that fund makes sufficient money that the carry is paid out, I will be paid a small percentage interest of that. Obviously that raises all sorts of ethical questions.

Before I even agreed to be nominated, we met with the Office of Government Ethics and said, "How would you like to proceed with this?" What I would propose is that all of those investments be known to the counsel's office, the ethics official, and the PBGC, who can then consult with the Office of Government Ethics. And if, as, and when those raise any conflict with my duties, if I am confirmed, then I will do whatever it takes, whether it is recusal, or disposal, or whatever.

Senator GRASSLEY. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Mr. Gotbaum, as I am sure you know, in 2009, many employers attempted to use an alternative method to calculate variable premiums as an option that employers can choose in making contributions. But apparently last year, many inadvertently failed to check a certain box. We have received many letters from companies saying that the PBGC determination precluding employers from using that alternative method was unfair because it was an oversight, some describe it as a foot fault.

If you look at all the rest of the form, at least many are led to the conclusion that that was just an oversight. Our staffs have looked at it on both sides of the aisle, and that is our conclusion, that the PBGC was overreaching a bit to prevent those employers from utilizing that alternative method even though a certain box was not checked. Frankly, I would hope this would be resolved before you are confirmed. You probably would, too.

Mr. GOTBAUM. Yes, sir. I do hope so.

The CHAIRMAN. But if it is not, I am just asking you to commit to examine this issue pretty closely and really do what is right.

Mr. GOTBAUM. Yes, sir. If this is not resolved before I am confirmed, of course I will.

The CHAIRMAN. I mentioned in my prepared remarks that many multi-employer pension plans have absorbed funding obligations of contributing companies that might go bankrupt. You have a little experience with bankruptcy, I understand. Clearly, this has the potential of subjecting many healthy employers in multi-employer plans to a lot of financial exposure. You are thinking about this. What are we going to do about these multi-employer plans?

Mr. GOTBAUM. Senator, this is a very hard one, and it is one with which I do not yet have direct experience. If you confirm me, obviously it is going to be one of the important, urgent issues.

Let me talk for a minute, at least, about what the interests are and why I am not sure there is a formula to do so.

The CHAIRMAN. Sure. That would be helpful.

Mr. GOTBAUM. Multi-employer plans are an undeniably good thing because they permit employees to get a measure of portability and to get a quality of pension administration that a single employer would not be able to provide.

The issue comes when some of the employers do well and some of the employers do not do well, and what do you do and how do you reconcile that? What has happened, unfortunately, is that, as some employers in an industry have failed and withdrawn, the other employers are saying, "Do I want to stick around and be responsible for obligations of people who are not my own employees?" So what has been in place is a series of arrangements and agreements by which some employers leave; however, those agreements are: (A) imperfect, and (B) insufficient.

So what I think is going to have to happen is, we are going to have to revisit this. Whether it gets revisited at the legislative congressional level or whether it gets revisited on a plan-by-plan, case-by-case basis, I am not knowledgeable enough to give you even an opinion, although, if you confirm me, I promise to develop one fast and come back. But it is a thorny, large problem, and it is a problem that involves very substantial economic interests. My guess is that what it will involve is a series of compromises, at least case-by-case and perhaps legislative.

The CHAIRMAN. I appreciate that. If confirmed, I do encourage you to give this a lot of thought on a proactive basis, because this is a problem that is festering. Like a lot of festering problems, the more we think about it earlier, the more likely the solution will be a little bit easier.

Could you please share your thoughts, too, about the various savings and pension programs that exist. The defined benefit plans are not as popular as they once were because companies moved to defined contribution. And there is a lot of talk about how American savings rates are pretty low in comparison with other countries. I would appreciate your thoughts generally about what you might be able to do at the PBGC to help develop policy and encourage Americans to have enough retirement and savings, plus Social Security, when they retire.

Mr. GOTBAUM. Thank you, Mr. Chairman. This is obviously an important question. I am going to give you my reactions now. I hope, if you confirm me and I get the benefit of the very talented PBGC staff, to give you a more articulate and more thoughtful response than now.

It seems to me that part of the challenges of these defined benefit pension plans are that we have made employers nervous about offering them. They are afraid they will get stuck with obligations that they did not count on. We have also not been very clear about the benefits of those plans.

The fact is, and this relates to the questions you asked Mr. Sorian, that retirement security, although not quite as complicated as health care, is very complicated. As a result, I think part of the way we get people to value their pensions, support their pensions, and agree to save is, in fact, the same kind of patient explanation of a complicated situation that Mr. Sorian and his colleagues, and frankly this committee, faces in explaining the health care area.

So one, we need to make sure that sponsors are comfortable offering plans. Two, we need to make sure that people understand the benefits of them. Third, we need to make sure that it is as easy as possible for people to make a savings choice, because, if we create, for whatever good reason, a series of procedural hurdles for people to do something that is complicated, whose consequences are years away, then a lot of people just will not do it.

The CHAIRMAN. Yes. Well, those are good thoughts. It is clearly a challenge this country is facing.

Mr. GOTBAUM. Yes.

The CHAIRMAN. I just wish you the very best. It reminds me of the Horace Mann quote at the beginning of my statement. It is almost an unreasonable request, but that is why we are here. That is why all of us are in public service.

Mr. GOTBAUM. Yes, sir.

The CHAIRMAN. And I just thank you both for offering yourselves to serve our country.

I also thank your families for participating, because this is a joint effort. It is never alone. But I wish you the very, very best as you proceed.

I noted earlier that if we could get a quorum we would vote to confirm Sherry Glied to be Assistant Secretary for Planning and Evaluation. We are unable, obviously, to get a quorum, so we will take up her nomination and hope to confirm her off the Senate floor at the first vote.

So, thank you very much. Again, thank you for your willingness to serve. I wish you very, very good luck.

The committee stands adjourned.

[Whereupon, at 10:47 a.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Hearing Statement of Senator Max Baucus (D-Mont.) Regarding Nominations

Congressman Horace Mann cautioned:

"More will sometimes be demanded of you than is reasonable. Bear it meekly, and exhaust your time and strength in performing your duties."

Mr. Sorian and Mr. Gotbaum, these are unreasonably demanding times. And yet, your nation calls upon you to exhaust your time and strength to perform new duties.

Mr. Sorian, you will enter the Department of Health and Human Services when it is implementing landmark health care reform.

And Mr. Gotbaum, you will direct the Pension Benefit Guaranty Corporation when millions of Americans have seen their pension plan funds depleted by the economic downturn.

The tasks that confront you both will demand much. This Committee asks you to dedicate your time and strength to perform your tasks well.

Mr. Sorian, President Obama has nominated you to be Assistant Secretary of Public Affairs at the Department of Health and Human Services.

At HHS, you will be responsible for helping Americans navigate the benefits of the new health care reform legislation. You will serve as the point person on public affairs matters for the department. Among these matters will be Web and new media and broadcast communications.

Mr. Sorian, you are well suited for the job ahead of you. Your work at the National Committee for Quality Assurance and the Center for Studying Health System Change has given you a solid grounding.

I also note your experience as the editor of a national health care trade journal. And you have authored three books.

Your job will be to help explain the health care reform bill. Note that I said explain, not sell. What's needed is an honest explanation of what's in the bill, and what's not.

The information needs to come from a reliable source. It needs to come in plain English. And it needs to come without jargon or spin.

HHS can be that trusted source. In your new role, you will direct public information from HHS. You will also direct a special outreach division to get the word out — not just about health reform — but also about pandemic events and public health emergencies.

You are an excellent choice for this job, and I look forward to working with you in the coming months.

Mr. Gotbaum, as Director of the Pension Benefit Guarantee Corporation, you will be responsible for protecting the pensions — and livelihoods — of millions of Americans. As Americans recover from this economic crisis, your task becomes even more important.

The PBGC staff has played an important — and much appreciated — role in developing part of the jobs legislation that Congress is considering this week.

This legislation would provide relief to defined benefit plans in light of the economic stress facing many employers. We appreciate the technical support from PBGC staff in developing this relief.

But we would also very much have appreciated the administration's views on the policy issues that we are facing. We look forward to having a Senate-confirmed PBGC Director soon to give us those views.

In particular, the PBGC will help us to address an issue facing certain multiemployer pension plans. In these plans, existing employers are paying into multiemployer plans to fund retirees and soon-to-be retirees of employers that are no longer in business. If we don't act, this burden threatens to bankrupt many large plans, and employers that fund them. Mr. Gotbaum, we will look forward to your counsel as we tackle this thorny problem.

Your experience has prepared you well for this job. You spent years in the private sector, helping manage and advise American companies and nonprofits. You led Hawaiian Airlines through a successful bankruptcy. And you managed the September 11 Fund.

You are an excellent choice for this job. And I look forward to working with you in the months and years to come.

Today, we also hope to consider the nomination of Sherry Glied to be Assistant Secretary for Planning and Evaluation at HHS. In this position, Dr. Glied will make important policy and planning decisions at HHS. And she must do so based on sound information, in a manner that most benefits the American people.

If we can obtain a quorum of Senators present, we will interrupt this hearing to report out Dr. Glied's nomination.

And so, I urge you all to dedicate yourselves to the tasks at hand. I urge you to meet the demands of the positions to which you have been nominated. And I urge you to serve America — and Americans — with exhaustive time and strength.

###

**Opening Statement of Joshua Gotbaum
Nominee to be Director of the Pension Benefit Guaranty Corporation
U.S. Senate Committee on Finance
May 26, 2010**

Mr. Chairman, Senator Grassley, Members of the Committee, thank you for considering my nomination.

We all know the Pension Benefit Guaranty Corporation (PBGC) is going through hard times – just when it is needed more than ever. Its finances are out of balance. Despite improvements, its service continues to disappoint some; its benefit levels frustrate others. And the behavior of the previous Director has called into question many of the agency’s actions, even some that done properly might be the right thing to do.

The leadership of this important agency matters now perhaps as much as any time since its founding.

Let me start by explaining how my background and experience could help the PBGC meet its critical challenges.

I would bring to the PBGC a broad range of experiences. My career has involved businesses, financial institutions, unions, non-profits, and government. Rather than being an expert in a particular industry, my skills are those of a manager and problem solver: I work to bring people together, to face difficult issues head-on and find consensus solutions to complex problems – solutions that respect all the stakeholders and that everyone can live with.

I have worked throughout the Federal government, in the White House as well as the Senate and five cabinet agencies. As a senior official at the Defense Department, I participated in and helped improve procurement decisions. At the Treasury Department, I helped coordinate the boards overseeing Social Security and Medicare trust funds. In four years at the Office of Management and Budget, I helped guide and coordinate the inspectors general and CFOs across the government; I also was repeatedly called upon to craft solutions to complex problems that crossed agency lines, problems ranging from disaster relief to civil rights to counterterrorism. I worked on economic policy and regulatory matters in two administrations and, early in my career, in the White House; for Senator Gary Hart in the Senate Budget Committee; and in the Departments of Energy and Transportation as well.

I went into the private sector in the 1980s. For more than a decade, I helped businesses, governments, and unions solve problems. I helped companies acquire other companies or be acquired themselves, raise funds or restructure the funds they'd already raised, and work through the complex, thorny issues of bankruptcy or out-of-court reorganization.

After September 11, 2001, I became the first CEO of The September 11th Fund. I built the team that was entrusted with more than \$500 million to help the many victims of that tragedy. I'm proud to say that we helped more than 100,000 to recover: people, small businesses, and nonprofits that had lost their families, their jobs, their workplaces, or their homes. And we did so in ways that set new standards for public accountability.

Since then I've worked with businesses in distress. I was appointed Trustee for Hawaiian Airlines, replacing the CEO removed by the bankruptcy court. Despite the challenges, Hawaiian Airlines exited bankruptcy successfully: the company was profitable, with an enhanced reputation, expanded service, new labor agreements, and 100% repayment of creditors – all without terminating the company's underfunded pension plan.

I have also led and managed in business, in non-profits, and in government. I've set strategy, hired and fired, committed capital and reputation, and engaged with board members, budget officers, overseers, critics, customers and clients. I know that every one of these responsibilities is handled differently in the public service. The ethical standards are higher. Having served in government – in three Senate-confirmed positions – I understand that I cannot ask for your confirmation without committing myself to meet those standards of accountability and ethical public service. I made that commitment in three previous administrations and I do so now.

If confirmed to lead the PBGC, I would work with stakeholders and staff to develop a workable consensus with respect to the agency's policies and programs. Several principles would guide me:

- That retirement security is essential and that defined benefit plans – which for many are a better way to achieve it – must be preserved;
- That the PBGC cannot choose between meeting the professional standards of industry and highest standards of government. It must do both;
- That the PBGC should provide its services with a sense of compassion;
- That we must address the critical issues facing the PBGC – such as funding relief, investment policy, and the deficit – directly and realistically; and
- That working with Congress and other stakeholders is essential.

If confirmed, I would of course address the agency's management and organizational challenges. My view of the role would be to provide a steady hand and independent judgment to help negotiate and solve complex problems and, through creative management, to encourage and enable the very professional PBGC staff to do so.

Congress has entrusted this agency with important responsibilities – protecting the pensions of more than 40 million people – and asked it also to serve as an advocate in deliberations on retirement security for all of us. However, there is no universally accepted blueprint for advancing the PBGC's mission, or for confronting the many issues the PBGC faces. Reaching agreement on these issues will require the engagement and acceptance of the Congress, the Administration, and many others with interests in retirement security. It will require both principles and practicality, creativity and compromise.

If confirmed, I would be honored to join with the PBGC, the Congress, and all those for whom retirement security is so important, to help the PBGC overcome its challenges and implement the goals we share.

Thank you for the opportunity to appear before you today. I look forward to hearing more about your views and answering your questions.

SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. **Name: (Include any former names used.)**
Joshua Gotbaum
2. **Position to which nominated:**
Director, Pension Benefit Guaranty Corporation
3. **Date of nomination:**
November 9, 2009
4. **Address: (List current residence, office, and mailing addresses.)**
5. **Date and place of birth:**
9/18/51 New York, NY
6. **Marital status: (Include maiden name of wife or husband's name.)**
7. **Names and ages of children:**
8. **Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)**

Scarsdale High School	9/66 - 6/69	HS diploma '69
Stanford University	9/69 - 12/71, 9/72-5/73	A.B. '73
Harvard Law School	9/73 - 6/74, 9/75-6/77	J.D. '78
Harvard Kennedy School of Government	9/74 - 6/77	Master Public Policy '78

9. **Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)**

<i>Job/Title</i>	<i>Organization</i>	<i>Location</i>	<i>Dates</i>
Operating Partner	Blue Wolf Capital Management	New York, NY	2007-Present
Investment Consultant	Self-Employed	Washington, DC	2005-Present
Chief Restructuring Officer	Platform Learning, Inc.	New York, NY	2006-07
CEO (2006-2007), Chairman, & Director (2006-2009)	Spotlight Analysis, LLC	Washington, DC	2006-09
Chapter 11 Trustee	Hawaiian Airlines, Inc.	Honolulu, HI	2003-05
CEO & Executive Director	The September 11 th Fund	New York, NY	2001-02
Controller	US Office of Management & Budget	Washington, DC	1999-2001
Executive Associate Director	US Office of Management & Budget	Washington, DC	1997-2001
Assistant Secretary for Economic Policy	US Treasury	Washington, DC	1996 - 97
Assistant Secretary for Economic Security	US Dept of Defense	Washington, DC	1994 - 95
General Partner (1990-1994), Vice President (~1985-1989), and Associate (1981--1984)	Lazard Frères & Co.	New York, NY & London, UK	1981 - 94
Legislative Assistant	US Senator Gary Hart, Senate Budget Committee	Washington, DC	1981
Associate Director for Economics	White House Domestic Policy Staff	Washington, DC	1980 -- 81
Special Assistant / Chief of Staff	Advisor to the President on Inflation, White House	Washington, DC	1979 -- 80
Policy Analyst & Special Assistant to DAS for Policy Analysis	US Department of Energy/White House Office of Energy Policy & Planning	Washington, DC	1977 -- 78
Consultant	National Highway Traffic Safety Administration, US Dept of Transportation	Washington, DC & Cambridge, MA	1975 -- 76
Law Clerk	Paul, Weiss, Rifkind, Wharton & Garrison	New York	Summer 76
Law Clerk	Verner, Liipfert, Bernhard & McPherson	Washington, DC	Summer 76
Intern	Environment Branch, OMB	Washington, DC	Summer 75
Law Clerk	Gordon & Schechtman, PC	New York	Summer 74

10. **Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)**

None

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

Consultant, Delphi Automotive LLP (October 2009-present)
 Consultant, Dorman & Fawcett (2009)
 Consultant, Elliott Management (2009)
 Consultant, Palisades Associates (~2007-2008)
 Consultant, Silver Point Capital (2009)
 Director, CEO & Chairman, Spotlight Analysis LLC (2006-2009)
 Director, TD Bank, N.A., and affiliates (April 2009-present)
 Operating Partner, Blue Wolf Capital Management (2007-present)
 Proprietor, Rental apartment, New York, NY (~1990-present)

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

Harvard University Board of Overseers	Member	2001-2006
Committee to Visit the Kennedy School of Govt.		2008-present
Adas Israel Congregation, Washington DC	Member	~1995-present
West Chop Club, Vineyard Haven MA	Member	~2003-present

13. Political affiliations and activities:

a. List all public offices for which you have been a candidate.

None

b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

None

c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

	<i>Year</i>	<i>Amount</i>		<i>Year</i>	<i>Amount</i>
Democratic National Committee	2000	2,000	Friends Of Betsy Gotbaum	2005	4,950
Ira Shapiro for Congress	2001	750	Halter for Arkansas	2005	500
Rendell '95	2001	250	Friends of Sean Patrick Maloney	2006	250
Committee For Betsy Gotbaum	2001	500	Safety-Kleen PAC	2006	2,500
Friends Of Doug Gansler	2001	150	New Yorkers For Betsy Gotbaum	2006	4,950
Ira Shapiro for Congress	2001	500	Jim Rosapepe MD State Senate	2006	150
Committee For Betsy Gotbaum	2001	2,000	Del Toro for Delegate Campaign	2007	500
Anne Summers For Congress	2002	250	Nels Ackerson 4 Congress	2007	200
Joe Lieberman For President	2003	2,000	Obama for America	2008	1,100
Friends Of Betsy Gotbaum	2003	1,000	Murtha For Congress	2008	100

	<i>Year</i>	<i>Amount</i>		<i>Year</i>	<i>Amount</i>
Gephardt for President	2003	500	Geoghegan for Congress	2009	250
Jennings for Congress	2004	150	Pleitez for Congress	2009	25
Democratic National Committee	2004	23,000	Michael Signer for Virginia	2009	150
John Kerry for President	2004	2,000	Andrei for Arizona	2009	50
Dan K Inoye for US Senate	2004	1,000	Citizens for Alan Khazzei	2009	250

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

Treasury medal for distinguished service

Defense Department Distinguished Service Award

Esquire Magazine Register of "Best of the New Generation," 1994

Fellowship award, Kennedy School of Government

Restructuring of Hawaiian Airlines won "Deal of the Year" for Finance awarded by Airline Business magazine

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

"Brother Can You Share a Dime? An Investment Banker's Guide to Employee Ownership," *ILR Report*, New York State School of Industrial & Labor Relations, Fall 1986 (Coauthored with Eugene Keilin and Ron Bloom)

"Coed Dorms: Results of the First Real Studies," *College*, 1:2, Fall 1973

"Politics, Values, and the War Over the War," *Politico*, October 2, 2007

"Prevention of Significant Deterioration," case study for the John F Kennedy School of Government, approx. 1976 (Under the direction of Prof. Lawrence Lynn)

"The Promised Land," *Government Executive*, May 2001

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

None

17. **Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)**

I am honored that the President nominated me to serve as Director of the Pension Benefit Guarantee Corporation. As a result of my experiences in both the private and public sectors, I feel qualified to serve in this role, and would be honored to do so if confirmed.

During my career, I have served in management positions in government (as Controller in the Office of Management and Budget, Assistant Secretary for Economic Policy at the Department of Treasury, and Assistant Secretary for Economic Security at the Department of Defense), in non-profits (as CEO and executive director of The September 11th Fund), and in business (as Chapter 11 Trustee for Hawaiian Airlines).

For 13 years, I worked as an investment banker on a wide range of financial matters, from acquisitions and public offerings to financial restructurings and bankruptcies. This work required a detailed understanding of both accounting and finance. During that time, I participated in negotiations concerning pensions, and gained experience with the importance of pensions and retirement security, and the issues involved in maintaining those pensions. I also gained exposure to the role of the PBGC in protecting those benefits while also maintaining its own financial integrity.

At Hawaiian Airlines, I participated in negotiations to preserve a defined benefit pension plan, while at the same time transitioning to a defined contribution plan. I also met with the PBGC and gained an understanding of the Corporation's role in bankruptcy.

As Assistant Secretary of Treasury for Economic Policy, I participated in discussions about Social Security, Government Sponsored Enterprises, and private pension investment practices, and I gained an understanding of many of the issues involved in PBGC investment decisions.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. **Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.**

Yes. However, after consultation and with approval of the Office of Government Ethics, I will retain a limited partnership interest in Blue Wolf Capital Fund II and a fractional passive interest in Blue Wolf Capital. This matter is addressed in my ethics agreement, and if confirmed, I will work with the agency's designated agency ethics official to ensure compliance with all ethical requirements.

2. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.**

No

3. **Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.**

No

4. **If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.**

Yes

C. POTENTIAL CONFLICTS OF INTEREST

1. **Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.**

In connection with the nomination process, I have consulted with the Office of Government Ethics and the PBGC's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Corporation's designated agency ethics official, which has been provided to this Committee. I am not aware of any other potential conflicts of interest.

2. **Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.**

In connection with the nomination process, I have consulted with the Office of Government Ethics and the PBGC's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Corporation's designated agency ethics official, which has been provided to this Committee. I am not aware of any other potential conflicts of interest.

3. **Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.**

None

4. **Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)**

In connection with the nomination process, I have consulted with the Office of Government Ethics and the PBGC's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Corporation's designated agency ethics official, which has been provided to this Committee. I am not aware of any other potential conflicts of interest.

5. **Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.**
6. **The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative: Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.**

NA

D. LEGAL AND OTHER MATTERS

1. **Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.**

No

2. **Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.**

No

3. **Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.**

As the court-appointed Chapter 11 Trustee for Hawaiian Airlines from 2003 to 2005, I was necessarily a party to the bankruptcy proceedings and related litigation, including litigation regarding my compensation as trustee.

In January 2005, as part of a dispute with the board of a residential cooperative apartment over whether my brother and his family could reside in our apartment, the board issued a notice of eviction. The notice was never acted upon and the disagreement was settled amicably.

While I was a partner in the Corporate Finance department of Lazard Frères & Co. in the early 1990's, the firm was investigated by the SEC and others regarding its activities in its municipal finance advisory group, a different part of the firm. After I left the firm to join the federal government in 1994, Lazard Frères settled the case with the SEC. I was not involved in any of the activities under investigation, and my work at Lazard Frères was in another department of the firm.

When I was in high school, I and my parents were defendants in a litigation involving a traffic accident. The case was settled.

4. **Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.**

No

5. **Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.**

None

E. TESTIFYING BEFORE CONGRESS

1. **If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?**

Yes

2. **If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?**

Yes

United States Senate
Committee on Finance



Sen. Chuck Grassley · Iowa
Ranking Member

Statement of Sen. Chuck Grassley
Hearing to consider the Nominations of Joshua Gotbaum, PBGC,
and Richard Soriano, HHS
Wednesday, May 26, 2010

The first nominee we will hear from is Joshua Gotbaum, nominated to be Director of the Pension Benefit Guaranty Corporation. I fully appreciate the extremely important role the PBGC serves to the country. The next director of the PBGC will face many challenges. These challenges range from reducing PBGC's current trust fund deficit to working with multi-employer plans to try to stave off plan insolvencies that – if they were to occur – would push the PBGC to the brink. Additionally, I hope that our nominee acts quickly to address some internal organizational problems that have plagued the PBGC. Our nominee must take seriously any conflicts of interests associated with the PBGC's government contracting process. I hope that the nominee – if confirmed – re-considers certain positions taken by the organization that if not re-considered, would surely hurt plan sponsors, and ultimately plan participants.

And finally, I cannot stress the importance of maintaining clear and honest communication with Congress. I actually would like to alert the nominee to a recent incident that occurred at the PBGC. I was provided with a memorandum that was prepared by the PBGC Inspector General that was addressed to the current Acting Director of the PBGC. That memorandum says, and I quote: "I remain concerned that the information you provided in response to the Senator's questions about recommendation implementation is both misleading and inaccurate."

The PBGC inspector general concluded that the agency misled Congress and the public on key issues. One issue included whether the agency took adequate steps to secure sensitive data after 1,300 Social Security numbers were lost at an Ohio train station. Another issue was whether the agency was able to verify that it received services in exchange for \$15 million in actuarial contracts. The inspector general concluded that in both cases, the PBGC fabricated corrective action that did not take place.

The Senator in the statement about having been misled is me, and I want to be sure that I am never provided information that is "both misleading and inaccurate." I hope I can get the nominee's assurances on that.

I ask unanimous consent that my letter to the Acting Director regarding his information to me be printed in the hearing record.

We are also considering the nomination of Richard Sorian to be Assistant Secretary for Public Affairs at the Department of Health in Human Services. HHS has a duty to ensure that Medicare beneficiaries have all the information they need on how their benefits change as a result of health care reform.

If confirmed, you will have this as your responsibility. Your role would be especially critical in an administration that has expressed a commitment to transparency and open government. While I have you here, I must address a major concern I have with a misleading brochure recently distributed by Secretary Sebelius to Medicare beneficiaries across the country. I want it to be clear that I understand you are not responsible for this brochure.

But if confirmed, I expect that you need to bring to the department a higher standard for candor and truthfulness in taxpayer funded correspondence than what HHS is currently displaying. This week, HHS distributed a brochure entitled, "Medicare and the New Health Care Law – What It Means for You." I and other members are deeply concerned about this brochure. A review of this brochure shows that it makes blanket statements that either are clearly in contradiction with or ignore details provided in estimates by the department's very own chief actuary as well as by the Congressional Budget Office. At this point, I ask unanimous consent that a list of inaccuracies be printed in the hearing record.

Selectively providing information to seniors that only shows positive aspects of the recently enacted health care law without providing the complete and candid analysis does a great disservice to Medicare beneficiaries. This is also an inappropriate and wasteful use of taxpayer funds. Again, I know that you were not responsible for this brochure. But it is important that you be made aware of my concerns because if you are confirmed, I will expect you to prevent similar material from being distributed by HHS.

SUBMITTED BY SENATOR GRASSLEY

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

May 11, 2010

Via Electronic Transmission

The Honorable Vincent K. Snowbarger
Acting Director
Pension Benefit Guaranty Corporation
1200 K Street, NW
Washington, DC 20005

Dear Acting Director Snowbarger:

Thank you for providing to me the Pension Benefit Guaranty Corporation's (PBGC) initial response to my March 31, 2010 letter, that was later supplemented on May 7, 2010.

I note with interest that the supplement to the PBGC's initial response to me came on the heels of a memorandum provided to you by the Inspector General (IG) of the PBGC. In particular, the PBGC IG stated the following:

I remain concerned that the information you provided in response to the Senator's questions about recommendation implementation is both misleading and inaccurate. (emphasis added)

As you can imagine, I am extremely troubled by this statement. Although it is true that the PBGC sent a supplementary response to my March 31 letter "to more fully describe the circumstances of the PBGC response to a contract audit by the OIG," I remain concerned. Would the PBGC have allowed its response to me to remain intact had its IG not discovered that the information provided to me was "misleading and inaccurate"?

Generally, Members of Congress rely on the representations of the heads of executive branch agencies when conducting their respective oversight responsibilities. Congress works hard not to second guess agencies and typically there is an element of trust that exists between Congress and the executive branch, particularly when it comes to an agency's written responses to Congress.

No less important is the fact that providing false or misleading information to Congress is not in the best interest of an agency and the legal penalties for doing so are well-established.

The PBGC is an important agency within the federal government, especially in these troubled financial times. Essential to its mission is that the PBGC maintains its integrity and that Congress be able to rely upon its representations without question. In addition, if there is any other information that has been provided to me or to any Member of Congress that requires further explanation or clarification from PBCG, please provide that information as soon as possible and in no event later than June 1, 2010. In closing, please take whatever actions needed internally to ensure that the situation discussed in this letter does not happen again in the future.

Sincerely,



Charles E. Grassley
Ranking Member

cc: Secretary of Labor Hilda L. Solis
Secretary of Commerce Gary Locke
Secretary of the Treasury Timothy F. Geithner
Senator Tom Harkin, Chairman, Senate Committee on Health, Education, Labor & Pensions
Senator Michael B. Enzi, Ranking Member, Senate Committee on Health, Education, Labor & Pensions

**List of Inaccuracies and Omissions in the CMS Brochure Entitled
“Medicare and the New Health Care Law—What it Means for You”**

Page 1:

Claim: *“These are needed improvements that will keep Medicare strong and solvent.”*

This statement ignores conclusions by the Chief Actuary for Medicare within the Department of Health and Human Services in an April 22, 2010 memorandum (Chief Actuary’s Memorandum) that plainly states that the reduced spending resulting from the significant Medicare cuts in the health reform bill, “cannot be simultaneously used to finance other Federal outlays (such as coverage expansions) and to extend the trust fund, despite the appearance of this result from the respective accounting conventions.”

Page 2:

More Affordable Prescription Drugs

Claim: *“Over the next ten years, you will receive additional savings until the coverage gap is closed in 2020.”*

According to the latest data from the Medicare Payment Advisory Commission (MedPAC), about 3 million beneficiaries—out of 17 million non-LIS eligible Part D enrollees—were actually exposed to 100 percent cost-sharing in the Part D coverage gap or “donut hole.” The Congressional Budget Office (CBO) has concluded that some of the changes enacted in the health reform law will likely raise Part D premiums almost 10 percent. Despite these facts, the brochure fails to disclose that 17 million seniors enrolled in Part D are likely to see significantly higher premiums for their drug coverage without seeing any benefit from the new law.

Improvements to Medicare Advantage

Claim: *“The new law levels the playing field by gradually eliminating Medicare Advantage overpayments to insurance companies.”*

This statement in the brochure ignores statutory requirements that Medicare Advantage funds, termed in the brochure as “overpayments to insurance companies,” must be used for lower cost-sharing or extra benefits for seniors. The Medicare statute clearly states that 75 percent of the difference between the plan’s bid and the benchmark payment amount must go directly to seniors in the form of lower cost-sharing and extra benefits, while 25 percent is returned to the federal government. In fact, these funds, again referred to in the brochure as “overpayments,” help millions of low-income seniors—who can’t afford to pay \$175 per month for supplemental coverage in a Medigap plan—fill in the holes of traditional Medicare. As a result, these low-income beneficiaries will be the most significantly impacted from these cuts in Medicare Advantage funding despite the brochure’s claim that this is an “improvement in Medicare.”

Claim: *“If you are in a Medicare Advantage plan, you will still receive guaranteed Medicare benefits.”*

The brochure fails to disclose that a significant number of seniors will lose access to Medicare Advantage benefits due to the health reform law. According to CBO, Medicare Advantage enrollment 10 years from now will be almost 2 million less than it is today. Enrollment was projected to increase by 4.8 million before the health reform law passed. This decrease is the result of plans cutting benefits and dropping out of the program entirely. So it is important to note that Medicare Advantage may no longer be an option for millions of seniors as a result of the new law.

Also, the brochure consistently uses the phrase “guaranteed Medicare benefits” to hide the fact that the changes to Medicare Advantage will cut extra benefits—like lower cost-sharing, disease management and dental and vision services—by approximately 50 percent. Seniors who rely on these benefits don’t care if they are guaranteed or not. They just want to know they’ll continue to have to health benefits they have come to rely on.

Page 3:

Better Access to Care

Claim: *“Your choice of doctor will be preserved.”*

This statement in the brochure ignores a number of conclusions by experts in direct contradiction of this claim. First, the Chief Actuary’s Memorandum concluded that cuts in Medicare due to productivity adjustments “are unlikely to be sustainable on a permanent annual basis” because of their impact on the program. In fact, the Chief Actuary’s conclusion is that 15 percent of Medicare Part A providers could be unable to sustain their operations in the next ten years as a result of the drastic Medicare cuts in the new health reform law and would therefore be unable to continue offering health care services to beneficiaries. According to the Chief Actuary, absent legislation to intervene and correct the problem, these cuts could cause some providers to “end their participation in the program” with the effect of “possibly jeopardizing access for beneficiaries.” Claims in the brochure that “choice of doctor will be preserved” are not support by the conclusions of the Department’s own Chief Actuary and are, at best, blatantly erroneous. Jeopardizing access to health care services will make access to care worse and not better.

Second, the Patient Protection and Affordable Care Act (PPACA) failed to address the Sustainable Growth Rate (SGR) problem so without additional legislation, it is unlikely that a beneficiary’s “choice of doctor will be preserved”. This is a significant fact that is omitted from the brochure and a clear example of the brochure failing to disclose all the facts.

Claim: *“The law increases the number of primary care doctors, nurses, and physician assistants to provide better access to care through expanded training opportunities, student loan forgiveness, and bonus payments.”*

These statements make broad assumptions that certain PPACA provisions (GME, student loans, and primary care bonus payments) will, in fact, increase the number of primary care physicians and health care professionals. There is no guarantee that the new health reform law will actually result in an increased number of primary care physicians and other health professionals. In fact, many primary care physicians continue to express concern about their shrinking numbers.

Better Chronic Care

Claim: *“Community health teams will provide patient-centered care so you won’t have to see multiple doctors who don’t work together.”*

This claim is overbroad and overstates the impact of PPACA. Section 3502 (Establishing Community Health Teams to Support the Patient-Centered Medical Home) of PPACA establishes a program to provide grants to eligible entities to establish community-based health teams. It requires state entities to apply for grants or enter into contracts with eligible entities to establish community based health teams to support primary care. There is a lengthy list of requirements to be a “health team” and eligible entities for grants must submit a plan for achieving long-term financial sustainability within 3 years and meet other specific requirements.

The broad statement in the brochure that “Community health teams will provide patient-centered care so you won’t have to see multiple doctors who don’t work together” implies that community health teams will be available to provide patient-centered care to all Medicare beneficiaries. This statement is misleading because it fails to include any caveats regarding the eligible entities or the extensive list of requirements for health teams and primary care providers that would convey the limited applicability of this program and make the statement accurate.

Claim: *“If you’re hospitalized, the new law also helps you return home successfully—and avoid going back—by helping to coordinate your care and connecting you to services and supports in your community.”*

This claim is overbroad and overstates the impact of PPACA. Sec. 3026 (Community-Based Care Transitions Program) of PPACA establishes a program that provides funding to eligible entities that furnish improved care transition services to high-risk Medicare beneficiaries. To qualify for the program, a beneficiary would have to be hospitalized in a hospital identified as having a high readmission rate and receive services from an appropriate community-based organization that provides specific care transition services detailed in the section. To qualify, an individual would also have to be a “high-risk” beneficiary based on a diagnosis of multiple chronic conditions or other risk factors associated with a hospital readmission that includes at least one of the specified risk factors, such as cognitive impairment or depression.

As noted in the previous paragraph, the broad statement that if you’re hospitalized, you will get help returning home and avoiding readmissions is not accurate since it paints a misleading picture by implying that this program would be available to all Medicare beneficiaries when in fact the program will only be available to certain hospitals and high-risk beneficiaries.

Page 4:

Keeps Medicare Strong and Solvent

Claim: *“Over the next 20 years, Medicare spending will continue to grow, but at a slightly slower rate as a result of reductions in waste, fraud, and abuse. This will extend the life of the Medicare Trust Fund by 12 years and provide cost savings to those on Medicare.”*

This claim that Medicare is strengthened is directly contradicted by the facts. First, reductions in growth are not the result of reductions in fraud, waste and abuse as claimed in the brochure. The reductions in growth are the result of drastic cuts in Medicare by the permanent productivity cuts and the cuts recommended by the Medicare Advisory Board (IPAB). The Chief Actuary estimated in the Chief Actuary’s Memorandum that the permanent productivity cuts, which the Chief Actuary warns are “unlikely to be sustainable” would reduce overall Medicare cost growth by 0.6 to 0.7 percent per years and the IPAB process would reduce Medicare cost growth by 0.3 percent per year. It is therefore misleading to claim that fraud, waste and abuse provisions are responsible for extending the life of the Federal Hospital Insurance Trust Fund by 12 years.

Also, the statement ignores conclusions in the Chief Actuary’s Memorandum that the reduced spending resulting from the significant Medicare cuts in the health reform bill, “cannot be simultaneously used to finance other Federal outlays (such as coverage expansions) and to extend the trust fund, despite the appearance of this result from the respective accounting conventions.”

According to the Chief Actuary’s Memorandum, “the estimated savings...for one category of Medicare provisions [permanent annual productivity adjustments] may be unrealistic.”

OACT also noted that “[a]verage Medicare costs per beneficiary usually increase over time” based on medical price-growth, higher utilization of services and greater complexity of the services and that actual Medicare cost growth per beneficiary was below the target level in only 4 of the last 25 years. Three of the four years were immediately after the Balanced Budget Act of 1997, and Congress passed two subsequent laws to mitigate its effects.

Also, during the last 25 years, the average increase in the target growth rate has been -.33 percent/year below the average Gross Domestic Product increase, approximately the same target level as the SGR system. Congress has overridden the SGR reductions for each of the last seven years and twice this year for the first five months of 2010. Another SGR override is expected for the rest of 2010 and possibly several years beyond.

Opening Statement

Richard Sorian

**Nominee to be Assistant Secretary for Public Affairs
U.S. Department of Health and Human Services**

**Senate Committee on Finance
May 26, 2010**

Chairman Baucus, Senator Grassley, members of the Committee, thank you for the opportunity to discuss my nomination to be Assistant Secretary for Public Affairs at the U.S. Department of Health and Human Services. It is an honor to appear before this distinguished Committee.

I'd like to take a moment to thank my family. My brother Steven is here today to cheer me on as always. Both of our parents believed in public service. Our mother was a teacher who taught in some of the toughest neighborhoods in New York. Our father was an accountant who spent most of his career working in hospitals and nursing homes. In our own ways, we are following in their footsteps.

I am grateful to President Obama and Secretary Sebelius for providing me this opportunity to serve the American people. The Department of Health and Human Services is truly the "People's Department," providing assistance and support to virtually every American. If confirmed, I would have the honor of helping to fulfill the mission that was captured so well by the late Senator Hubert Humphrey, for whom the HHS headquarters is named:

"[T]he moral test of Government is how that Government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy and the handicapped."

The Assistant Secretary for Public Affairs serves as the Secretary's principal counsel on public affairs, conducts national public affairs programs, provides centralized leadership and guidance for public affairs activities within HHS's Staff and Operating Divisions and regional offices, and administers the Freedom of Information and Privacy Acts. ASPA also leads the planning, development, and implementation of emergency incident communications strategies and activities for the Department.

My career has prepared me for the challenges of this position. I began my career as a working journalist, covering American health policy development. In fact, I spent many hours sitting at the press tables behind me. As editor of *Medicine and Health*, a respected weekly news publication, I was able to inform my readers on the important details of policy development. I continued those efforts as editor of the *Journal of American Health Policy* and as the author of three books.

From 1993 to 1998, I served as a Senior Communications Advisor for Health and Human Services Secretary Donna Shalala, working on such issues as health care reform, Medicare and Medicaid, HIV/AIDS, and quality improvement. I was particularly pleased to serve as the Deputy Director of the President's Commission on Consumer Protection and Quality in the Healthcare Industry. The commission created a blueprint for much of the quality improvement work that has occurred in the last 12 years.

From 1998 to 2001, I continued my work on these issues at Georgetown University, where I also conducted research on the optimal way to communicate complex health policy issues to federal and state lawmakers and policymakers.

For the last seven years, I served as Vice President for Public Policy and External Relations at the National Committee for Quality Assurance. NCQA's mission is to improve the quality of health care. I worked closely with Congress, federal agencies, the states, the media, and the numerous stakeholders in health care to advance that mission through education, communication, and outreach.

If I am confirmed, a major priority will be to maintain a strong partnership with this Committee and the Congress. The laws you write must be implemented in a manner that fulfills your intent and the very real needs of the people for whom they were written. While the Public Affairs division does not develop or set policy, it plays a critical role in communicating to the American people about the choices and benefits available to them. The division also plays a critical role in the President's agenda of transparency and open government.

Our nation's recent experience with the H1N1 flu epidemic reinforces the importance of quick and clear communication of information to empower people in this country and elsewhere to protect their health and the health of their families and neighbors.

Clearly, a major priority of the Department and its Public Affairs division is and will be the implementation of the Affordable Care Act and related legislation. Public Affairs can play a key role in making sure these critical reforms are implemented successfully. Helping people understand their rights and responsibilities under the Act is essential to its success. Today, millions of Americans who are eligible for such programs as Medicaid and CHIP are not enrolled. Many of them don't know that they are eligible. We need to find ways to prevent that from happening again. Fortunately, there is a long history of successful implementation of major changes in health care coverage going back to the creation of Medicare in 1965, the Balanced Budget Act of 1997, the Children's Health Insurance Program, and the Medicare Modernization Act of 2003.

The current information age provides us with many more tools and vehicles to communicate important information to millions of people. We have learned that the most successful communications efforts employ a variety of messages, messengers, and media to reach people where they live, where they work, and where they gather. We need clear and concise information that is developed with the audiences in mind.

If I am confirmed, I look forward to working with this Committee and others in Congress to ensure that health reform is implemented quickly, effectively, and consistent with congressional intent.

Chairman Baucus, Senator Grassley, members of the Committee, thank you again for allowing me to testify today. I am happy to answer any questions.

###

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

- 1. Name: (Include any former names used.)**

Richard Mark Sorian

- 2. Position to which nominated:**

Assistant Secretary for Public Affairs, U.S. Department of Health and Human Services

- 3. Date of nomination:**

October 5, 2009

- 4. Address: (List current residence, office, and mailing addresses.)**

- 5. Date and place of birth:**

May 5, 1958, Brooklyn, New York

- 6. Marital status: (Include maiden name of wife or husband's name.)**

- 7. Names and ages of children:**

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

Fellowship for Advanced Studies in Public Health, Harvard University
September 1989 – May 1990 (no degree)

The George Washington University
September 1976 – May 1980
Bachelor of Arts, May 1980

Lawrence High School
1973-76
High School Diploma, May 1976

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

July 2003 – present, Vice President for Public Policy and External Relations, The National Committee for Quality Assurance, Washington, DC.

January 2002 – June 2003, Director of Public Affairs/Senior Researcher, The Center for Studying Health System Change, Washington, DC

October 1998 – December 2001, Project Director, Institute for Health Care Research and Policy, Georgetown University, Washington, DC

September 1993 – September 1998, Senior Advisor, Health Policy Communication, U.S. Department of Health and Human Services, Washington, DC

March 1997 – March 1998, detailed to the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry

November 1994 – March 1997, detailed to the White House Office of National AIDS Policy

December 1992 – September 1993, Washington Bureau Chief, Medical News Network, Whittle Communications, Washington, DC

May 1980 – December 1992, Associate Editor/Editor, McGraw-Hill Inc. Healthcare Information Center, Washington, DC

10. Government experience: (List any advisory, consultative, honorary, or

other part-time service or positions with Federal, State or local governments, other than those listed above.)

None

- 11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)**

Member (unpaid), Board of Directors, Food & Friends (non-profit community organization), Washington, DC

- 12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)**

Member, National Academy of Social Insurance, Washington, DC (current)

Member, National Press Club (1980-1993)

- 13. Political affiliations and activities:**

- a. List all public offices for which you have been a candidate.**

None

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.**

None

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.**

Please see attached table.

- 14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)**

1989, Fellowship for Advanced Studies in Public Health, the Harvard School of Public Health

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

BOOKS

The Bitter Pill: Tough Choices in America's Health Policy, (McGraw-Hill, Inc.) 1989

The Health Care 500, (Faulkner & Gray), 1988

A New Deal for American Health Care, Editor and Contributing Author (Faulkner & Gray), 1993

"Covering Health Issues: Quality of Care" (chapter), Alliance for Health Reform resource book, February 2009

ARTICLES

Measuring, Reporting, and Rewarding Performance In Health Care, by Richard Sorian, Commission on a High Performance Health System, Commonwealth Fund, March 2006.

Pay for Performance: A Promising Start, by Richard Sorian, Issue Brief, Alliance for Healthcare Reform, February 2006.

Administrative Challenges in Managing the Medicare Program, by Michael E. Gluck, Ph. D, Richard Sorian, AARP Public Policy Institute, December 2004.

Power of Information: Closing the Gap Between Research and Policy, by Richard Sorian and Terry Baugh, March/April 2002, *Health Affairs*, Vol. 21, No. 2.

Ensuring Health Security: Is the Individual Market Ready for Prime Time? by Karen Pollitz and Richard Sorian, *Health Affairs Web Exclusive* (October 23, 2002).

Critical Policy Challenges in the Third Decade of the HIV/AIDS Epidemic, by Jennifer Kates, MPA, MA, Richard Sorian, Jeffrey S. Crowley, MPH, and Todd A. Summers, *American Journal of Public Health*, July 2002, Vol 92, No. 7.

How Accessible Is Individual Health Insurance for People in Less-than-Perfect Health? by Karen Pollitz, Richard Sorian and Kathy Thomas, Report for The Henry J. Kaiser Family Foundation (June 2001), available online at www.kff.org/content/2001/20010620a/.

Why We Need a Patients' Bill of Rights, by Richard Sorian and Judith Feder, *Journal of Health Politics, Policy and Law*, Vo. 24, October 1999.

WORK AS JOURNALIST

From 1980 to 1985, I was editor of Health Legislation & Regulation Report, a weekly publication. There were 10-15 short news items in each issue, most of which I wrote or edited. There were also legal summaries of new health bills and regulations that were written and edited by others.

From 1985 to 1990, I was editor of Medicine & Health, a weekly publication. There were 10-15 short stories in each issue, about half of which I wrote.

From 1990 to 1992, I was editor of the Journal of American Health Policy, a bimonthly publication. I would usually write one or two articles in each issue.

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

1. June 2004, "Developing a Value Agenda for Healthcare," (panel presentation to the Integrated HealthCare Information Services)
2. September 2004, "The State of Health Care Quality in Florida," (keynote presentation to conference on quality improvement in Florida)
3. September 2004, "Developing a Value Agenda for Healthcare" (panel presentation to conference on quality improvement in California)
4. October 8, 2004, "The State of Health Care Quality" (presentation to MedImpact conference)
5. September 8, 2005, "The State of Health Care Quality in Hawaii," (keynote presentation to conference on quality improvement in Hawaii)
6. October 17, 2005, "The State of Health Care Quality" (presentation to American Health Information Management Association)
7. October 27, 2005, "The State of Health Care Quality: Pennsylvania," (panel presentation to conference on quality improvement in Pennsylvania)
8. November 30, 2005, "The State of Health Care Quality: Georgia," (keynote presentation to conference on quality improvement in Georgia)
9. February 24, 2006, "Consumer Driven Healthcare: What Can States Do?" (panel participant at AcademyHealth conference for policy researchers)
10. March 28, 2006, "Measuring Health Care Quality" (presentation to graduate class in public policy at George Washington University)
11. May 16, 2006, "The State of Health Care Quality in Maryland" (presentation to a conference focused on quality improvement)
12. June 2006, "Harnessing Data to Drive Health Care Quality Improvement" (panel participant at a National Governors Association conference)
13. August 15, 2006, "The Need for Health Care Quality Improvement" (keynote remarks to conference in Puerto Rico on improving quality)

14. September 8, 2006, "Transforming PPO Accreditation" (presentation to Minnesota employer coalition)
15. September 13, 2006, "Raising the Bar: Expanding Accountability of Providers and Plans" (remarks at Pittsburgh Business Group conference)
16. September 29, 2006, "The State of Health Care Quality in New Jersey" (keynote to conference on improving quality)
17. October 26, 2006, "The State of Health Care Quality in Utah" (keynote to conference on improving quality)
18. April 17, 2007, "The High Cost of Low-Quality Care" (remarks to graduate student class at the National Institute of Health Policy)
19. May 2007, "The High Cost of Low-Quality Care" (presentation to General Electric union/management representatives)
20. June 6, 2007, "The State of Our Health in Illinois" (keynote to conference on improving quality)
21. August 22, 2007, "Thinking Two Moves Ahead: NCQA's Next Generation of Health Plan Accreditation" (remarks at meeting with representatives of Blue Cross/Blue Shield health plans)
22. November 9, 2007, presentation to state agency staff at NCQA's Tennessee Health Quality Initiative planning meeting.
23. November 28, 2007, "Keeping Score: Quality Measurement and Pay for Performance" (presentation at a conference sponsored by Johnson & Johnson on evidence-based medicine)
24. March 6, 2008, "Health Reform is Back! How Can We Make It Work for Consumers?" (keynote to a Florida conference on quality improvement)
25. May 2, 2008, "The State of Our Health in Wisconsin" (keynote to conference on quality improvement)
26. September 16, 2008, "The State of Our Health in South Carolina" (keynote to conference on quality improvement)
27. October 16, 2008, "Improving the Quality of Care in South Carolina's Medicaid Program" (keynote to conference on improving quality in Medicaid)
28. October 27, 2008, "Improving Quality Through Measurement, Transparency & Accountability" (panel presentation at National Association of Health Data Organizations conference on expanding health plan quality measurement and reporting)
29. November 13, 2008, "Improving the Quality of Care in State Medicaid and SCHIP Programs" (panel presentation at National Association of State Medical Directors conference on Medicaid quality improvement)
30. January 15, 2009, "The American Health Care System: Access, Costs and Quality" (presentation to group of visiting physicians, Special American Business Internship Training Program, U.S. Department of Commerce)
31. April 30, 2009, "NCQA Health Plan Accreditation" (Web-Ex presentation to Puget Sound Health Alliance board of employer coalitions)
32. June 23, 2009, "Value-Based Purchasing: Promise and Pitfalls" (Web-Ex presentation to audience of health care professionals)
33. August 17, 2009, "Protecting Consumers Enrolled in Private Health Plans" (Web-ex presentation to consumer groups on health reform and quality improvement)

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

When it comes to communications, I am a firm believer that, in the words of Justice Louis Brandeis, "sunshine is the best disinfectant." By providing people with clear, accurate, and timely information, we empower them to take action to protect and improve their health, to understand the choices they have to make, and to participate in the important public debates of the day. That is why I have spent my professional career working to provide useful information to a variety of audiences to help them understand the important details of the American health care system.

From 1980 to 1993, I was a professional journalist writing about health care policy development and health care industry trends. As Editor of *Medicine & Health*, then the health care industry's leading source of information about health care policy, I wrote about such important topics as Medicare and Medicaid reform, the early stages of the HIV/AIDS epidemic, and other public health matters of national importance. My work helped to inform decision-makers in and out of government as they worked to devise solutions to the problems the nation faced.

From 1993 to 1998, I served in the federal government as a Senior Advisor on Health Policy Communication in the Office of the Secretary of the U.S. Department of Health and Human Services. In that capacity, I helped the Secretary and her Department communicate on a wide range of topics including health care reform, Medicare and Medicaid, HIV/AIDS policy, and quality improvement and patient protections in health care. I was able to gain a greater understanding of how our government serves the people in critical areas of their lives. I learned to appreciate even more the importance of sharing accessible information with the public, policymakers, industry leaders, advocates, academics, and others.

Since 1998, I have continued my work in health care as a researcher and a public policy analyst. During my tenure at Georgetown University, I conducted qualitative research that explored the information needs and practices of state and federal policymakers. By better understanding what kind of information these key audiences need and how to best communicate that information, I was able to improve the communications skills of several national organizations. At the Center for Studying Health System Change, I gained experience and knowledge about the health care system at the local community level by conducting and communicating research about changing markets across the U.S.

Most recently, in my capacity as Vice President for Public Policy and External Relations at the National Committee for Quality Assurance, I have worked to translate the complex issues and topics related to health care quality measurement and improvement to lay audiences as well as Members of Congress, Congressional Staff, Governors, State Legislators, and the media.

If confirmed for the position of Assistant Secretary for Public Affairs at the U.S. Department of Health and Human Services, I hope to put all of these skills and experiences to work to help inform the public and all stakeholders in the programs and policies related to this important agency at a critical time in our nation's history.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. **Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.**

Yes

2. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.**

No

3. **Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.**

No

4. **If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.**

Yes

C. POTENTIAL CONFLICTS OF INTEREST

1. **Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.**

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Health and Human Service's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's Designated Agency Ethics Official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

- 2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.**

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Health and Human Service's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's Designated Agency Ethics Official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

- 3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.**

In my capacity at NCQA, I have met with Members of Congress and their staff to discuss issues related to quality measurement and reporting. In my previous positions at Georgetown University and the Center for Studying Health System Change I conducted research that was policy-related, but did not perform any advocacy activities.

- 4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)**

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Health and Human Service's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's Designated Agency Ethics Official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

- 5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.**
- 6. The following information is to be provided only by nominees to the**

positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

N/A

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None

E. TESTIFYING BEFORE CONGRESS

- 1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?**

Yes

- 2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?**

Yes

