

Announcement Concerning the Department of Health by House Chairman John Ragan (R-Oak Ridge) and Senate Chairman Kerry Roberts (R-Springfield) pursuant to the Joint Committee's action at the June 16, 2021, meeting to invite the Department to Return to the Committee's next meeting on July 21, 2021, read by Chairman Kerry Roberts:

The Committee for Government Operations legislatively creates, renews, and oversees the 262 entities that comprise Tennessee state government. The Committee also approves rules promulgated by any of the entities with rule-making authority.

The entities include departments (e.g. the departments of health, education, and transportation), commissions, boards, agencies, and councils. The entities also include the University of Tennessee, Tennessee Tech, University of Memphis, and our other state universities.

The Department of Health was created by the General Assembly on behalf of Tennesseans. The Government Operations committee functions like a board of directors while the executive branch, under the leadership of the governor's appointed commissioner, manages the Department. It is not uncommon for a commissioner to appear before the Government Operations committee to answer questions or address issues that are of concern to the committee.

At the June meeting of the Joint Committee for Government Operations, Chairman John Ragan and I, along with other committee members, expressed two concerns to Commissioner Lisa Piercey: administering the Covid-19 vaccine – which the FDA considers an unapproved product under emergency use authorization - without parental consent and marketing to minors instead of to parents.

Although committee members expressed additional concerns, the primary focus was on Covid-19 vaccination without parental consent and marketing directly to minors.

Near the conclusion of a rather robust discussion, Rep. Scott Cepicky made a motion to invite the Tennessee Department of Health to the July meeting. The Tennessee Department of Health is represented here today.

After June's meeting, Commissioner Lisa Piercey informed Chairman Ragan and myself of a pre-existing conflict and asked to appear at the August meeting.

Before agreeing to a deferral, Chairman Ragan and I requested a meeting with Dr. Piercey and a representative of the governor's office.

During that meeting, Dr. Piercey and the governor's office confirmed that it is not the policy of Tennessee Department of Health, Tennessee Department of Education, or our 89 county health departments to administer the Covid-19 vaccine to children without parental consent. She further detailed the steps taken to stop any marketing directed at minors.

To be clear, the Tennessee Department of Health was not asked to stop vaccinating children nor have they stopped vaccinating children for Covid-19 or any other disease. Rather, they were asked to stop vaccinating children for Covid-19 WITHOUT PARENTAL CONSENT and stop marketing to minors.

At this point, our unified position is no state-related entity should be administering the Covid 19 vaccine (which the FDA considers an unapproved product under emergency use authorization) without parental consent or marketing to minors.

Tennessee is blessed with thousands of dedicated state employees working in our county health departments, local education associations, and universities. Although we, in partnership with Dr. Piercey and the Governor's office, are making it abundantly clear that state employees are not to vaccinate children for Covid-19 without parental consent (subject to certain common law exceptions) nor is there to be marketing to minors, let me address various allegations related to bullying, bribing, shaming, coercing, or cajoling in order to entice or compel vaccines to either children or adults.

It is imperative that our county health departments, local education associations, universities, and vaccine partners understand that the administration of the Covid-19 vaccine must comply with additional federal requirements because it is an "unapproved product." In other words, the FDA considers it an unapproved product authorized only for use in emergencies.

21 U.S. Code §360bbb-3 "Authorization for medical products for use in emergencies" details the conditions of authorization of an unapproved product. Specifically, when an unapproved product is administered under emergency use authorization any of the following are violations of federal law per 21 U.S. Code §360bbb-3(e)(1)(A)(ii):

- failing to identify the significant known and potential benefits and risks of the vaccine, or
- failing to provide an option to refuse, or
- failing to identify alternatives that are available

To anyone bullying, bribing, shaming, coercing, or cajoling an individual into taking the vaccine, I strongly urge you to consult with your legal counsel for potential violations of federal law.

It is not appropriate for a state employee to use their influence or authority to coerce a student into receiving the vaccine. Here are some examples of what we consider unacceptable behavior:

A football coach must not coerce players into being vaccinated by demanding that they wear masks and be tested weekly at their own expense until they are vaccinated.

A band director must not suspend marching band members from a half-time show unless they get vaccinated.

A teacher must not shame children by segregating the vaccinated children from the unvaccinated ones in the classroom.

A county health department must not pay or incentivize parents to vaccinate children. Entering a parent into a drawing for a car if they vaccinate their child is reprehensible, immoral, and likely illegal.

Our six independent county health departments failing to align with the position of Tennessee Department of Health on these issues.

Before closing, I want to reiterate the only two concerns Chairman Ragan and I expressed were vaccinating children with an unapproved product authorized for emergency use only without parental consent and marketing to minors. Interpreting those two concerns as being anti-vaxxers is intellectually dishonest and wrong. We have not discouraged Tennesseans from being vaccinated nor have we discouraged Tennesseans from having their children vaccinated.

Further, it has been widely misrepresented that all children's vaccines have come to a halt. To be absolutely clear, Tennessee's efforts on childhood vaccinations are unchanged. The only exception is administering a Covid-19 vaccination without parental consent.

In closing, I want to thank Dr. Piercey and the governor's team for responding so quickly to the committee's concerns. This is an exceptionally difficult topic with many Tennesseans pushing for a vaccine mandate and many more Tennesseans pushing back – and many, many more in the middle. Chairman Ragan and I enjoy an excellent relationship with both the Department of Health and the governor's office and we will continue working together for the citizens of the Great State of Tennessee.