



KENTUCKY

General News



January 2015

SATAC Saves Lives

Kentucky Overdose Patients to Receive Narcan Kits

Heroin overdose reversal kits are being purchased for Kentucky hospitals with the highest rates of heroin overdose deaths. Governor Steve Beshear, First Lady Jane Beshear, and Attorney General Jack Conway announced on Jan. 6 that overdose patients will receive a kit free of charge when they leave the hospital, so they or a loved one can prevent another overdose event and possibly save a life.

“Heroin has harrowing impacts on people who use it, as well as on their families and their communities,” Gov. Beshear said. “Many hospitals in Kentucky see multiple overdose victims every day. These kits, once in the community, can allow a friend or family member to reverse a heroin overdose almost immediately. It’s a literal lifesaver as families forge a path toward recovery.”

The Substance Abuse Treatment Advisory Committee (SATAC) is providing \$105,000 to purchase approximately 2,000 naloxone rescue kits for the University of Louisville Hospital, the University of Kentucky Hospital in Lexington, and the St. Elizabeth Hospital system in Northern Kentucky. The kits will be provided free of charge to every treated and discharged overdose victim at the pilot project hospitals. The committee hopes to expand the program to 17 more Kentucky hospitals or hospital systems.



“This project will allow us to get this medicine into the hands and homes of the people who need it most – heroin users and their families,” said Attorney General Conway, who serves as the SATAC chair. “Heroin and opiate abuse is killing Kentuckians, and these kits will save lives and provide a second chance for people to seek treatment for their addictions. I hope the legislature will follow our lead by putting partisan politics aside and passing meaningful heroin legislation that will stiffen penalties for large-scale traffickers, increase treatment funding, provide for a Good Samaritan defense, and get naloxone kits into the hands of first responders and limit the civil liability of those responders.”



KYKIDSRECOVERY

Naloxone, which is also known as Narcan, has no potential for abuse and immediately reverses the effects of a heroin overdose by physiologically blocking the effects of opiates. Right now, it is not covered by Medicaid or many private insurance companies, which means even if users currently receive a prescription they likely never fill it because they cannot afford it. Naloxone is available in injectable or nasal mist forms. The nasal mist form must still be approved by the Food and Drug Administration (FDA). When it is approved, health experts believe most insurance companies and Medicaid will begin to cover it.

“Narcan kits are critical, lifesaving tools that can help put people on the road to recovery,” said Mrs. Beshear. “As Kentuckians expand access to mental health treatment, including addiction recovery, it’s more important than ever to have community access to tools like Narcan. Often, an overdose experience is what finally drives people suffering from addiction to seek help.”

In 2013, 230 Kentuckians died from heroin overdoses. The final numbers for 2014 are not currently available, but officials do expect an increase in the number of heroin overdose fatalities.

To learn more about SATAC and its effort to expand drug treatment across Kentucky, visit KyKidsRecovery.ky.gov.

[\\$54 Million Saved for Eastern Kentucky Ratepayers in Fuel Cost Case](#)



Attorney General Conway and his Office of Rate Intervention, along with the Kentucky Industrial Utility Customers (KIUC), have saved eastern Kentucky ratepayers approximately \$54 million in unlawful fuel costs charged by Kentucky Power Co., the result of their successful intervention in a utility case previously before the Kentucky Public Service Commission (PSC).

In an order issued on Jan. 23 by the PSC, the commission deemed the fuel costs unreasonable and directed Kentucky Power to refund ratepayers \$13.2 million that it had already collected during the first four months of last year. Additionally, the PSC barred the company from collecting an estimated \$41 million in additional fuel costs that was to be collected through the end of May 2015. Over the 17-month period, the average residential customer will save approximately \$155.

“As Attorney General, I am proud to serve as an advocate for Kentucky consumers, and at a time when every dollar saved can make a difference for so many Kentuckians, I’m pleased that we are keeping this money in the pockets of ratepayers in eastern Kentucky,” Attorney General Conway said. “My Office of Rate Intervention and I work hard each day protecting Kentuckians from excessive utility rates.”

Kentucky law allows electric generating utilities to bill ratepayers for the reasonable costs of fuel required to run the generating plants on a monthly basis, and those charges appear each month on a customer’s monthly bill. Citing joint testimony from the Office of the Attorney General and KIUC, the PSC ruled that Kentucky Power violated PSC precedent and prior orders in the process it uses to determine fuel charges for ratepayers.

Additionally, in 2013, the PSC authorized Kentucky Power to purchase a 50-percent interest in the Mitchell power plant in West Virginia to replace the Big Sandy Unit 2 in Louisa, Ky. In its order, the commission criticized Kentucky Power for not disclosing the impact that its allocation of fuel costs would have on its ratepayers during the period when both the Mitchell plant and the Big Sandy plant remain operational.

“Transparency is critical, and indeed one of the touchstone principles in the regulatory process,” the PSC said. “The failure of Kentucky Power to disclose this information in the Mitchell Case is a matter of great concern to the commission.”

Attorney General Conway opposed Kentucky Power’s plan to acquire the Mitchell plant as a replacement for the Big Sandy Unit 2 and appealed the PSC’s decision to the Franklin Circuit Court. The appeal is pending.

[AG Conway Announces \\$22 Million Settlement with DaVita Healthcare Partners](#)

Attorney General Conway joined four other states and the federal government on Jan. 6 in reaching a \$22 million settlement with DaVita Healthcare Partners (DaVita). The agreement settles allegations that DaVita, one of the leading providers of dialysis services in the United States, paid illegal kickbacks to induce the referral of patients to its dialysis clinics, thereby causing false claims to be submitted to the state’s Medicaid program.

DaVita is headquartered in Denver, Colo., and has dialysis clinics in 46 states and the District of Columbia. DaVita has agreed to pay \$22,356,143.08 to resolve the false claims allegations. Kentucky’s share of the settlement is \$172,531.17. In addition to Kentucky, the states involved in the settlement include California, Colorado, Florida, and Ohio.

“I am pleased that this settlement allows us to recover funds for our vital state Medicaid program,” Attorney General Conway said. “My Medicaid Fraud and Abuse Control Unit works hard each day to hold accountable health care companies that participate in this type of deceptive behavior.”

The settlement is based on a lawsuit filed by a whistleblower under the federal False Claims Act and similar state statutes and involves 46 dialysis clinics that DaVita co-owned with physicians.





MEDICAID FRAUD & ABUSE

Former Caregiver Arraigned on Neglect Charge

A former caregiver in Powell County is charged with recklessly abusing a vulnerable adult at a long-term residential care facility. David McClure, 61, of Mayfield, Ky., was arraigned Jan. 14 in Marshall District Court on one count of recklessly abusing or neglecting an adult.

McClure worked as a caregiver for a 28-year-old developmentally disabled resident of a Community Alternatives of Kentucky facility in Benton, Ky. In July 2013, McClure allegedly pulled and twisted the arms of the victim to restrain him while he was sitting in a chair. The victim is alleged to have suffered bruising as a result of the incident.

Attorney General Conway's Medicaid Fraud and Abuse Control Unit investigated this case. It is being prosecuted by the Marshall County Attorney's Office. A pretrial conference is scheduled for Feb. 4.

Former Caregiver Arraigned on Financial Exploitation Charge

A Powell County woman has been charged with knowing exploitation of an adult over \$300. Bobbie Creech, 30, was indicted by a Clark County grand jury on Dec. 11, 2014, and arrested on Jan. 9, 2015. She was arraigned the following week in Clark Circuit Court.

Creech is alleged to have exploited an adult under her guardianship by cashing the individual's Social Security income checks, which were to be used for paying medical and living expenses at a Medicaid-funded facility, and keeping the money for her own personal use.

Knowing exploitation of an adult over \$300 is a class C felony. If convicted, Creech faces a potential sentence of five to 10 years in prison.

Attorney General Conway's Medicaid Fraud and Abuse Control Unit investigated this case. It is being prosecuted by Clark County Commonwealth's Attorney David Smith. A pretrial conference in this case is scheduled for Feb. 12.

Medicaid Fraud and Abuse Control Unit

Since Attorney General Conway took office in January 2008, his Office of Medicaid Fraud and Abuse Control has recovered or been awarded more than \$280 million for the state and federal Medicaid programs. These cases range from lawsuits and settlements against pharmaceutical companies to cases against individual providers.

In 2013, General Conway's Medicaid Fraud Unit was named one of the most aggressive in the country by the nonprofit watchdog group Public Citizen. The Attorney General's tip line for reporting allegations of Medicaid fraud or suspected patient abuse and neglect is **877-228-7384**.



CYBERCRIMES

Cybercrimes Unit Arrests Kenton County Men on Child Porn Charges

Two Kenton County men are facing charges for allegedly possessing child pornography. Kenneth J. Sundberg, 47, was arrested at his home by General Conway's Cybercrimes Unit on Jan. 13. He was charged with four counts of possession of matter portraying a sexual performance by a minor.

An investigation by the Cybercrimes Unit began in November of last year following an undercover lead. A search warrant was executed at Sundberg's Crescent Springs residence, where investigators seized computers believed to contain files depicting children engaged in sexually explicit conduct.



Kenneth J. Sundberg



Alan Newberry

In a separate child pornography investigation, investigators arrested 42-year-old Alan Newberry the same day at his Kenton County home. Newberry was also charged with four counts of possession of matter portraying a sexual performance by a minor.

Both men were lodged in the Kenton County Detention Center. Possession of matter portraying a sexual performance by a minor is a class D felony. Each count carries a penalty of one to five years in prison.

General Conway's Cybercrimes Unit

Since its creation in June 2008, Attorney General Conway's Cybercrimes Unit has launched more than 450 child pornography investigations and seized nearly 700,000 child pornographic images and videos from the Internet. The unit is also a member of the U.S. Dept. of Justice's Internet Crimes Against Children Task Force.

For additional information on General Conway's efforts to protect Kentuckians from Internet predators, visit the Office of the Attorney General's "Cybersafety in Kentucky" page at ag.ky.gov/cybersafety/. To report cyber abuse, visit the CyberTipline or call **800-843-5678**.

Former Morgan County Judge-Executive Sentenced for Accepting Kickbacks

Former Morgan County Judge-Executive Timothy Conley has been sentenced to 87 months in federal prison for soliciting and accepting more than \$100,000 in illegal kickbacks from a bridge contractor.



A federal judge sentenced Conley on Jan. 27 for honest services mail fraud and ordered him to pay \$130,000 in restitution. Conley was also ordered to pay \$104,000 to the Kentucky Transportation Cabinet and \$26,000 to Morgan County. Under federal law, Conley will have to serve at least 85 percent of his prison sentence.

Conley admitted at his guilty plea in August 2014 that, between early 2009 through August 2013, he rigged the county's competitive bidding process to ensure that contracts for certain Morgan County bridges were awarded to PBTHNOJJ Construction, a Salyersville, Ky., bridge contractor owned by Kenneth and Ruth Gambill.

As part of that scheme, Conley admitted to directing Kenneth Gambill to deliver kickbacks to him from the proceeds of PBTHNOJJ Construction's bridge contracts. For example, in 2013, Conley secretly altered bid documents for three bridges to ensure that PBTHNOJJ Construction would receive the contract to build each bridge. Conley solicited \$15,000 per bridge and accepted \$45,000 in cash from Kenneth Gambill for the three bridges.

According to the plea agreement, these kickbacks were part of a scheme to defraud the citizens of Morgan County of their right to Conley's honest services.

Kenneth and Ruth Gambill pleaded guilty and have been sentenced for conspiring to launder the proceeds of Conley's kickback scheme.

The investigation was conducted by the Office of the Attorney General and the FBI. The case was prosecuted by the U.S. Attorney's Office and the Public Integrity Section of the U.S. Department of Justice.

Physician Charged with Prescribing Pain Medications Resulting in Patient Deaths

A Louisville physician is charged with prescribing pain medications that resulted in the deaths of five patients. Jaime Guerrero, 47, was indicted by a federal grand jury on Jan. 21 and also faces charges of health care fraud and unlawful distribution or dispensing of controlled substances.

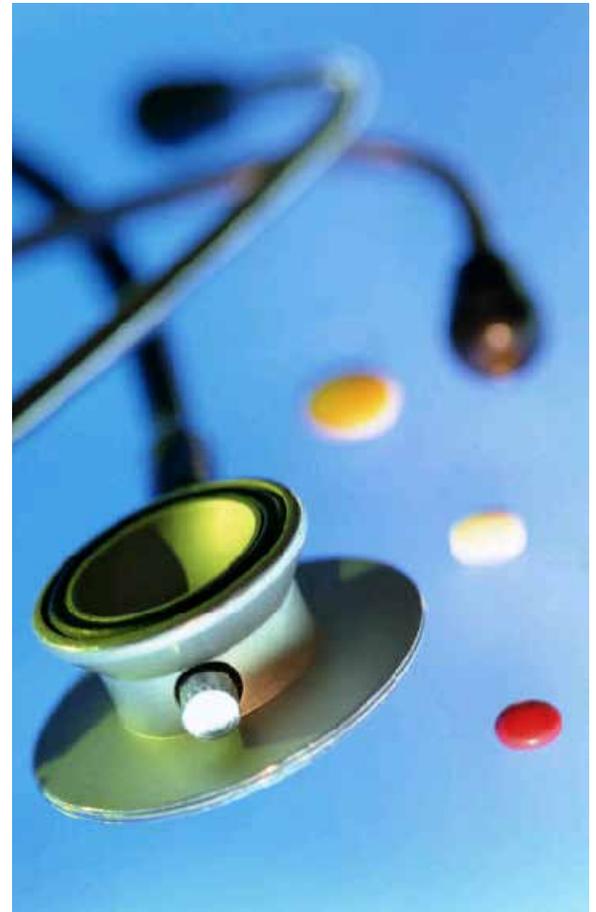
Guerrero is a doctor with offices in Louisville and Jeffersonville, Ind. He was charged in a 32-count indictment with unlawfully dispensing pain medications to 30 patients without a legitimate medical purpose and beyond the bounds of professional medical practice. Beginning in December 2009 and continuing through May 2014, Guerrero allegedly prescribed pain medications that resulted in the deaths of the five patients.

Additionally, Guerrero is charged with two counts of health care fraud for allegedly fraudulently billing various health care programs and for submitting false claims for patient health care counseling.

On May 26, 2011, June 15, 2011, and June 22, 2011, Guerrero allegedly saw more than 100 patients on each of the dates, by himself, and spent approximately three minutes or less with each patient. He then fraudulently billed various health care programs for office visits at a higher code than the service provided.

If convicted, Guerrero faces up to life in prison, a \$2.75 million fine and a three-year period of supervised release.

This case was investigated by the Federal Bureau of Investigation (FBI), the U.S. Department of Health and Human Services-Office of Inspector General (HHS-OIG), the U.S. Drug Enforcement Administration (DEA), Attorney General Conway's Medicaid Fraud and Abuse Control Unit, Indiana's Medicaid Fraud Control Unit, the Kentucky State Police (KSP) and Louisville Metro Police Department (LMPD). The case is being prosecuted by the U.S. Attorney's Office for the Western District of Kentucky.



Defendants in Harlan County Murder Case Sentenced

A Harlan County man and woman have been sentenced on murder and robbery charges.

On Dec. 2, 2014, 38-year-old Timothy M. Turner pleaded guilty in Harlan Circuit Court to charges of murder, second-degree robbery, possession of a forged instrument, theft by unlawful taking over \$500, and being a persistent felony offender. Turner's co-defendant, 35-year-old Rachel A. Osborne, pleaded guilty on June 6, 2013, to murder and first-degree robbery.

Pursuant to the plea agreements, on Jan. 9, Timothy Turner received a 40-year prison sentence and won't be eligible for parole for 18 years. Osborne received a 20-year prison sentence for her involvement in this case and will not be eligible for parole for 17 years.

In May 2011, Turner and Osborne robbed 58-year-old Steve Gibson inside his Harlan County home. During the robbery, the couple gagged Gibson and restrained him with duct tape. While Turner and Osborne were stealing items from the home, Gibson suffocated. Police found Gibson's body inside his home on June 2, 2011, while performing a welfare check. Turner and Osborne were subsequently arrested after cashing one of Gibson's checks at a local bank. That same day, Turner's mother, 58-year-old Nancy Turner, in her role as a notary public, fraudulently notarized a car title for her son. She pleaded guilty to first-degree official misconduct, received a probated sentence and can no longer serve as a notary public.

"I am pleased that the hard work of my Office of Special Prosecutions has resulted in three guilty pleas in this case," Attorney General Conway said. "I also appreciate the judge's decision to follow our sentencing recommendations for each defendant. As always, my office is committed to seeking justice for Kentucky's crime victims."

The Kentucky State Police investigated this case. Attorney General Conway's Office of Special Prosecutions handled the prosecution at the request of the Harlan County Commonwealth's Attorney.