



KENTUCKY

General News



February 2013

Changes to Prescription Drug Law Make it More User Friendly for Doctors, Patients



Attorney General Jack Conway says revisions to Kentucky's prescription drug law make it more user friendly for doctors and patients. General Conway joined House Speaker Greg Stumbo, Senate President Robert Stivers, and other law enforcement and legislative leaders, on March 5 as Governor Beshear signed into law House Bill 217 to address unintended consequences following last year's passage of House Bill 1.

"This measure makes common sense improvements to Kentucky's landmark legislation to fight prescription drug abuse in the Commonwealth," General Conway said. "These changes will make it easier for doctors and patients to live within the confines of the law, yet they uphold the original intent to fight prescription drug abuse in Kentucky."

General Conway says passage of House Bill 1 has helped curb the abuse and diversion of prescription pills. Unable to comply with the tougher regulations, nearly half of the state's pain clinics have shut their doors and for the first time in a decade prescriptions for the most abused/diverted drugs like Oxycodone, Hydrocodone and Opana are down, nearly 50 percent in some cases.

Key Changes in HB 217:

- ▶ exempts hospitals and long-term care facilities from some prescription regulations;
- ▶ modifies the diagnostic and treatment protocols for controlled substance prescribing; particularly for patients with acute pain, such as end-stage cancer care;
- ▶ allows hospitals and long-term care facilities to have accounts for KASPER, the state's prescription drug monitoring program; and
- ▶ clarifies the acceptable qualifications for a physician owner or medical director of a pain management clinic.

HB 217 was drafted after multiple meetings with stakeholders in the medical community, law enforcement and licensure boards and agencies.

More information — <http://migration.kentucky.gov/Newsroom/governor/20130305hb217.htm>



Kentucky Homeowners Receive More than \$55 Million under National Mortgage Settlement

The nation's five largest mortgage servicers have provided more than \$55.5 million to 1,562 Kentucky homeowners under the national mortgage settlement. A post-settlement report released on February 21 also shows that as of December 31, 2012, mortgage servicers were processing additional relief claims for Kentucky borrowers totaling more than \$2 million, bringing Kentucky's total consumer relief to \$57.5 million.

"This report shows that in the year since we announced the landmark mortgage settlement, a substantial amount of consumer relief has reached struggling homeowners," General Conway said. "I am pleased that a large percentage of the settlement resulted in people being able to keep their homes."

Nationally, the report found that more than 550,000 borrowers received some type of consumer relief totaling \$45.83 billion during the same period. On average, each borrower received \$82,668 in relief. These figures include first lien trial modifications, as well as completed relief.



Settlement Relief Provided to KY Homeowners

- ▶ First lien modifications – 121
- ▶ Second lien modifications – 438
- ▶ Short sales – 415
- ▶ Refinances – 279

Fighting for Kentucky Homeowners

Attorney General Conway was among 49 state attorneys general to reach the historic \$25 billion settlement with Ally/GMAC, Bank of America, Citi, Chase and Wells Fargo in February of 2012. Kentucky received \$58 million under the settlement. Thirty-eight million dollars is being allocated by the settlement administrator to consumers who qualify for refinancing, loan write downs, debt restructuring and/or cash payments of up to \$2,000. Kentucky also received \$19.2 million in settlement money that was allocated to agencies in the Commonwealth that create affordable housing, provide relief or legal assistance to homeowners facing foreclosure, redevelop foreclosed properties and reduce blight created by vacant properties.



General Conway has also filed suit against the Mortgage Electronic Registration Systems, Inc. (MERS) for violating Kentucky's recording statutes by not recording mortgage assignments with County Clerks when mortgages were sold or transferred from one bank to another. Additionally, the lawsuit alleges that since MERS' creation in 1995, members have avoided paying more than \$2 billion in recording fees nationwide. Additional information about the MERS lawsuit is available at <http://migration.kentucky.gov/Newsroom/ag/merscomplaint.htm>

To learn more about the mortgage foreclosure settlement, visit ag.ky.gov/mortgagesettlement

Link to the Monitor's Progress Report: www.mortgageoversight.com/wp-content/uploads/2013/02/Ongoing-Implementation.pdf

Attorney General Helps Secure Additional Funding for LIHEAP



Kentucky families struggling to heat their homes received additional assistance in February. Attorney General Conway's Office of Rate Intervention (ORI), the Kentucky Public Service Commission (PSC) and Community Action Kentucky secured nearly \$50,000 to aid the Low-Income Home Energy Assistance Program (LIHEAP) and related weatherization efforts in Eastern Kentucky. The additional funds were the result of a March 2012 settlement between the Federal Energy Regulatory Commission (FERC) and Constellation Energy Commodities Group.

"I am pleased that we were able to secure additional funds for Kentucky families struggling to heat their homes," General Conway said. "This money was put into use immediately to assist Kentucky households facing imminent termination of their electric services."

Under the settlement, FERC ordered Constellation to surrender more than \$110 million in unjust profits to be placed in a fund to benefit electric energy consumers in the affected states. ORI and the PSC determined the amount of money due Kentucky and saw that it was allocated for LIHEAP funding in the service territory of Kentucky Power Co., which was impacted by Constellation Energy's alleged market manipulation. Approximately \$49,700 was paid in February to CAK and distributed to five community action agencies that assist LIHEAP eligible households in the 20-county service territory affected by the settlement. The funds came just as the five agencies had exhausted their initial allotment for LIHEAP.

The Crisis component of LIHEAP runs from January through March 31st or until all funds are exhausted, whichever occurs first.

Since 2008, General Conway's Office of Rate Intervention has intervened in rate cases and other utility matters resulting in more than \$1 billion in savings for ratepayers.

Attorneys General Conway and Zoeller Launch Annual Food Drive

Attorney General Conway and Indiana Attorney General Greg Zoeller kicked off the fifth annual March Against Hunger food drive at Louisville's Dare to Care Food Bank on February 28. The friendly food drive challenges attorneys and law firms to compete against each other to see which firm can donate the most food to regional food banks.

"March Against Hunger is an opportunity to spread awareness about a growing problem and spotlight attorneys who go above and beyond to help their clients and their communities," General Zoeller said. "Hunger is preventable and that's why we are calling on those in the profession to lend their support."

In 2012, 51 law firms participated in the March Against Hunger food drive and donated more than 11,400 pounds of food and raised \$51,822. Since 2009, food drive participants have donated more than 34,100 pounds of food and raised \$127,167.

“The food bank that we’re supporting serves families in the Louisville area and southern Indiana. I encourage firms based in Kentucky to consider joining this effort to help put food on the tables of families in need across this region. I applaud General Zoeller and his efforts to organize this food drive and I appreciate the opportunity to assist in his efforts,” General Conway said.

Kentucky ranks 14th highest in the nation for the number of food insecure children, under the age of 18, and fourth highest in the nation for food insecure children, under the age of five. The deadline to donate is March 31. To sign up to participate in this year’s statewide competition visit www.marchagainsthunger.org or www.in.gov/attorneygeneral.



[Attorney General Conway Files Suit Against Manufacturer of Avandia](#)

Attorney General Conway and his Office of Consumer Protection filed suit in Franklin Circuit Court on February 20 against the manufacturer of the diabetes drug Avandia. The lawsuit alleges that GlaxoSmithKline violated Kentucky’s Consumer Protection Act by engaging in deceptive advertising, overstating the effectiveness of Avandia and hiding the drug’s risks from Kentuckians.

GSK asserted that Avandia was a “significant advance” in diabetes medication. Additionally, the drug maker affirmatively represented that Avandia could reduce the cardiovascular risks suffered by diabetics. As of 2010, more than 370,000 Kentuckians had been diagnosed with diabetes, the condition that Avandia purportedly treated. The Attorney General’s lawsuit alleges that Avandia, rather than reducing cardiovascular risks, actually increases the cardiovascular risks for diabetics.

The Attorney General alleges that GSK tested Avandia before its release to the public and discovered that it posed greater cardiovascular risks to diabetics than other drugs on the market at the time. The lawsuit purports that the makers of Avandia, fully aware and in spite of the increased health risks to Kentucky consumers, proceeded to spend hundreds of millions of dollars to advertise, promote and sell Avandia to the public.

The complaint also alleges that the makers of Avandia knew that there was no scientific evidence to substantiate their claims about the safety and effectiveness of the drug. GSK is accused of compensating scientists who made favorable findings about the safety and effectiveness of Avandia. The lawsuit claims it was GSK’s policy to bury unfavorable scientific data about Avandia by not releasing the negative findings, or only releasing limited information about the tests.

“Doctors from the Mayo Clinic found that 87 percent of the authors who wrote scientific articles about the safety and effectiveness of Avandia had financial ties to GSK,” General Conway said.

Attorney General Conway is seeking injunctive relief and civil penalties of up to \$10,000 per violation against GSK. The injunctive relief sought would seek to prevent GSK from conducting business within the Commonwealth in an unfair, false, misleading and/or deceptive way in the future.

More information — <http://migration.kentucky.gov/Newsroom/ag/avandiasuit.htm>

General Conway’s Medicaid Fraud Unit Among Nation’s Most Aggressive

Since taking office in January, 2008, General Conway’s Office of Medicaid Fraud and Abuse Control has recovered or been awarded nearly \$300 million for the state and federal Medicaid programs. These cases range from lawsuits and settlements against pharmaceutical companies to cases against individual providers.

In 2012, the nonprofit watchdog group Public Citizen named General Conway’s Medicaid Fraud Unit one of the most aggressive in the country.

The Attorney General’s Tip Line for reporting allegations of Medicaid fraud is 1-877-228-7384.





MEDICAID FRAUD & ABUSE

Kentucky Joins \$28 Million Multistate Settlement with Healthpoint

Attorney General Conway announced that Kentucky will participate along with 15 other states and the federal government in a \$28 million settlement with Healthpoint, Ltd to resolve allegations it illegally marketed Xenaderm, a prescription skin ointment.

“Even after Healthpoint received questions from state Medicaid programs, the company failed to disclose that Xenaderm was ineligible for Medicaid reimbursement,” General Conway said. “I am pleased that we were able to stop these deceptive marketing practices and recover money for a vital state program and for Kentucky taxpayers.”

In 2002, Healthpoint began marketing Xenaderm, a prescription medication used primarily to treat nursing home patients’ bed sores, also known as “decubitus ulcers,” without approval by the Food and Drug Administration (FDA). Healthpoint also allegedly promoted that Xenaderm was “Medicaid reimbursed.” Generally, Medicaid only pays for drugs that have been approved by the FDA.

Under the terms of the settlement, the Kentucky Medicaid program will receive nearly \$194,000.

Attorney General Announces \$5.5 Million Settlement with AstraZeneca

Attorney General Conway and his Offices of Medicaid Fraud and Abuse Control and Consumer Protection announced a \$5.5 million settlement with AstraZeneca Pharmaceuticals LP on February 7 to resolve allegations of off-label marketing of the atypical antipsychotic drug Seroquel.

The settlement resolves allegations that AstraZeneca illegally marketed Seroquel for uses the Food and Drug Administration (FDA) had not approved as being safe and effective. The FDA has only approved Seroquel for the treatment of schizophrenia and various bipolar disorders in adults.

Under the settlement, the Kentucky Medicaid program will receive more than \$3.3 million. The remainder of the proceeds will be distributed on a pro-rata basis to the Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities for certain treatment conducted at facilities across the Commonwealth, and to the Kentucky Department of Corrections, the Department for Juvenile Justice, the University of Kentucky Medical Center and the University of Louisville Hospital. The pro-rata distribution is based on the off-label utilization at the respective agencies.

Attorney General Announces \$12 Million Multistate Settlement with Victory Pharma

Attorney General Jack announced on February 12 Kentucky would join the federal government and other states in a more than \$12 million

settlement with Victory Pharma, Inc. (VPI) to resolve allegations of an illegal kickback scheme. VPI paid the states and federal government \$12.2 million in civil damages to compensate Medicaid, Medicare and various federal healthcare programs for harm suffered as a result of its conduct. The settlement resolves allegations that California based VPI paid unlawful kickbacks to health care professionals to induce them to prescribe four of its drugs, Naprelan (osteoarthritis pain), Xodol (narcotic pain killer), Fexmid (muscle relaxant) and Dolgic (migraine headaches).

“Drug companies that engage in illegal marketing tactics to sell their products will be held accountable,” General Conway said. “Illegal kickback schemes waste taxpayer money, undermine the integrity of medical decisions and put the public’s health at risk.”

The Kentucky Medicaid program will receive a total of \$426,843 from the VPI settlement, of which it will retain approximately \$120,000 after reimbursing the federal government for its share of the settlement.

Three Plead Guilty to Medicaid Fraud in Connection with Program for Mentally Challenged

Three people pled guilty on February 11 in Warren Circuit Court to charges of Medicaid fraud, forgery and theft in connection with their work at LifeSkills, Inc. in Bowling Green, Ky. and the Kentucky Medicaid Supports for Community Living (SCL) program. LifeSkills, Inc. provides services to mentally challenged or developmentally disabled individuals as part of Kentucky Medicaid’s Supports for Community Living (SCL).

Timothy Schwartz, a former employee of LifeSkills, Inc., pled guilty to complicity to theft by unlawful taking over \$10,000, devising or engaging in a scheme to defraud the Kentucky Medicaid Program (complicity) and five counts of forgery third degree. Schwartz faces up to five years in prison when he is sentenced on March 25, 2013.

Schwartz’s accomplices, Mark and Mandy Huff, also pled guilty to charges of complicity to theft by unlawful taking over \$500 and devising or engaging in a scheme to defraud the Kentucky Medicaid Program (complicity). Mark Huff was sentenced to five years in prison, to be diverted for a period of five years and 180 days of home incarceration.

Mandy Huff received a sentence of two years in prison, diverted for five years. Both were also ordered to have no contact with LifeSkills or the families impacted by the fraud and will be excluded as Medicaid providers for the next five years. They also paid a combined restitution of \$25,156 to LifeSkills to pay back their portion of the proceeds from the theft.

The charges against Schwartz and Mark and Mandy Huff are the result of an investigation by General Conway’s Office of Medicaid Fraud and Abuse Control and the Cabinet for Health and Family Services’ Office of the Inspector General.

Kentuckians Touched by Prescription Drug Abuse Share their Stories Through Attorney General’s Website.

Ashland Father Shares Story of Son’s Battle With Prescription Pill Addiction

Ashland, Ky. resident Mike Donta knows the heavy toll that prescription drug addiction can have on a family. In 2010, Donta’s 24-year-old son, Michael, lost his three-year battle with prescription drug abuse. Donta, who travels with Attorney General Conway through his Keep Kentucky Kids Safe program, is now sharing his story as part of a series of videos on the Attorney General’s website entitled “Faces of Prescription Drug Abuse.” Donta’s video was posted on February 12, on what would have been his son’s 27th birthday.

“To receive a phone call that says your son is dead is devastating,” said Donta. “I have traveled from one end of the state to the other with General Conway to share my message that prescription drugs really do kill. If you abuse prescription drugs, you are going to struggle the rest of your life. You are not born a drug addict; it’s a choice you make. My son made some bad choices, and they cost him his life.”



Donta’s video is available for viewing at <http://www.youtube.com/playlist?list=PL18C32F62C07C4347> . In addition to Donta’s video, Miss Kentucky Teen USA 2009 Jefra Bland tells how prescription drug abuse has forever changed her family.

Has prescription drug abuse affected you or your family?

If you or your family has been affected by prescription drug abuse, General Conway invites you to share your story. Videos may be submitted as a “video response” to any of our Faces of Prescription Drug Abuse clips. More detailed instructions on how to create a “video response” are available at <http://goo.gl/VzKp2> .

Attorney General’s Office Obtains Life Sentence for Marshall County Man on Murder, Arson Charges



A Trigg County jury recommended the maximum sentence of life in prison without the possibility of parole in the retrial of 42-year-old George Luna in the 2007 death of a Marshall County woman. Luna also received 20 years in prison on a charge of first degree arson, which by law must run concurrent with the life sentence.

After five days of testimony, it took the jury just over an hour on February 8 to convict Luna for a second time in the beating death of 46-year-old Debra Hendrickson of Benton, Ky., and for setting her mobile home on fire to hide the evidence.

“I appreciate the hard work of my Office of Special Prosecutions in obtaining the maximum sentence possible in this case,” General Conway said. “I hope this verdict brings some measure of comfort and closure to the family of Debra Hendrickson.”

Luna’s 2008 conviction and two consecutive life sentences in connection with the Marshall County murder were overturned on appeal due to an issue with a juror. The trial was moved to Trigg County after failure to seat a jury in Marshall County.

Former Wayne County Clerk Indicted on Forgery Charges

An investigation by Attorney General Conway’s Department of Criminal Investigations (DCI) resulted in the indictment and arrest of former Wayne County Clerk Jennifer “Melissa” Turpin on February 7. The 40-year-old Turpin, of Monticello, Ky., is charged with one count of forgery, Second Degree, a Class D felony, and one count of being a persistent felony offender, First Degree, a Class B felony.

The charges against Turpin follow an investigation by General Conway’s DCI Unit that began in August of 2012. Turpin, the office manager and title clerk for Somerset Auto Auction in Somerset, Ky., is accused of forging the signature of Pulaski County Clerk Ralph Troxell on a title for a 2006 Toyota Highlander sold on Craigslist to a Maryland resident.



Turpin is also currently on probation in Franklin Circuit Court for filing false tax returns and failure to pay tax and in Wayne Circuit Court for abuse of public trust over \$10,000.

A charge is merely an accusation and a defendant is presumed innocent until and unless proven guilty.

Attorney General's Office Receives Grant to Promote Awareness of Crime Victims' Rights and Services

Attorney General Conway's Office of Victims Advocacy has received funding from the U.S. Department of Justice's Office for Victims of Crime (OVC) to promote community awareness of crime victims' rights and services during National Crime Victims' Rights Week April 21-27, 2013.

General Conway's Office was selected to receive a \$5,000 grant after consideration of nearly 170 Community Awareness Project applications from across the country. The grant will be used for the annual Kentucky Crime Victims Assistance Conference April 22-23 and a Crime Victims' Rights Day rally on May 13, 2013.

"The support from OVC for our 2013 National Crime Victims' Rights Week activities will help us ensure that Kentucky's crime victims are aware of the important services available to them as they seek justice and healing," General Conway said. "My office is committed to providing service and support to Kentucky's crime victims and to ensuring that their voices are heard."

National Crime Victims' Rights Week is an annual observance that seeks to increase general public awareness of, and knowledge about, the wide range of rights and services available to people who have been victimized by crime. The theme for 2013 National Crime Victims' Rights Week is "New Challenges. New Solutions."

General Conway's Office of Victims Advocacy (OVA) provided resource referrals to approximately 4,300 victims, victim advocates, service providers and the general public in 2012. OVA also trained more than 300 victim advocates, prosecutors and law enforcement through the Victims Assistance Conference and the Child Interview Approaches training.

Additionally, the Office of Victims Advocacy administers and monitors the Child Sexual Abuse and Exploitation Prevention Board, which funds child sexual abuse prevention programs and oversees the tax check-off and license plate projects for the Child Victims' Trust Fund.



Save the Date!

The 2013 Kentucky Victims Assistance Conference will be held April 22-23 at the Clarion Hotel in Lexington, Ky. Keynote speakers include Anne Seymour, co-founder and senior advisor of the Washington, D.C.-based non-profit Justice Solutions, specializing in criminal and juvenile justice, crime victims' rights and services, and community safety, as well as Dr. Earl L. Suttle, internationally recognized motivational speaker and executive coach. Dr. Earl's mission statement is "empowerment through education and enthusiasm."

The 2013 Crime Victims' Rights Day rally will be held at noon on May 13, 2013 at the Kentucky Victims of Homicide Memorial at Resthaven Memorial Park, 4400 Bardstown Road, Louisville, KY.

For information about national efforts to promote 2013 National Crime Victims' Rights Week, please visit the Office for Victims of Crime Web site at <http://www.ovc.gov>.

