



KENTUCKY

General News



March 2013

Protecting Our Nation's Heroes

Attorney General Jack Conway launched a legal “toolkit” to protect military servicemembers from scammers and unscrupulous businesses that often prey on our nation’s heroes.



General Conway joined the United States Department of Justice (DOJ) and the Attorneys General from Illinois, Indiana and North Carolina in developing the toolkit to provide to all Attorneys General to assist and encourage their offices to more effectively combat scammers and criminals who seek to take advantage of our servicemembers and veterans.

“Our servicemembers risk their lives every day to protect our nation and defend our freedom,” said General Conway, who serves as co-chair of the Consumer Protection Committee of the National Association of Attorneys General (NAAG). “We in law enforcement need to do what we can to protect our nation’s heroes from abusive lending practices, scammers and other unscrupulous businesses that prey on the men and women of our military.”

The initiative came in conjunction with the Consumer Protection Working Group of the President’s Financial Fraud Enforcement Task Force (FFETF), which is focused on preventing victimization of military servicemembers and their families.

Members of the military, who believe they may have been taken advantage of, have questions about a company, or who face a consumer-related issue should contact their state Attorney General for assistance. The Office of the Kentucky Attorney General may be contacted at (888) 432-9257 or (502) 696-5300 or by email at consumer.protection@ag.ky.gov.

More information — <http://goo.gl/EK53z>

Attorney General Conway again joined with Holly Petraeus and the Consumer Financial Protection Bureau to focus attention on consumer issues facing servicemembers and their families. General Conway moderated a panel discussion on March 22 with Mrs. Petraeus, Brig. Gen. David Ehrhart (USAF, Ret.) and Francis King with the U.S. Department of Justice to talk about the many consumer and financial challenges facing military men and women. The panel discussion was held during the National Association of Attorneys General-Southern Region meeting in Nashville, TN.

In 2011, General Conway co-hosted an event with Mrs. Petraeus and Tennessee Attorney General Robert Cooper at Fort Campbell to provide soldiers and their families with the tools and information they need to protect themselves.



(L to R) Brig. Gen. David Ehrhart (USAF, Ret.), Francis King with the U.S. Department of Justice, Holly Petraeus, and Attorney General Conway.

In June 2012, General Conway led a group of 20 Attorneys General in securing a settlement with QuinStreet, Inc. over its operation of a website called GIBill.com. GIBill.com appeared to be a government website with information about GI Bill benefits, but was actually a lead generator for the for-profit college industry. The settlement secured \$2.5 million and transferred GIBill.com to the Department of Veterans Affairs.

Attorneys General Shows Support for Protecting Financial Aid for Students and Taxpayers Act

Attorney General Conway joined 13 of his colleagues in support of the Protecting Financial Aid for Students and Taxpayers Act. The bill, sponsored by Sen. Kay R. Hagan (D-NC) and Sen. Tom Harkin (D-IA), restricts institutions of higher learning from using federal financial aid for recruitment, advertising and marketing purposes.

“I support higher education and students who seek a degree to create a better life for their families, but many times I see those dreams turn to nightmares when students fall prey to a fast sales pitch from a for-profit college with a questionable reputation,” said General Conway, who chairs a multistate group of 32 state Attorneys General examining the questionable business practices of some for-profit institutions. “This bill ensures that scarce federal education dollars will be used to serve and educate students rather than to finance advertising campaigns, recruitment operations and aggressive marketing at colleges that have placed profits ahead of student success.”

General Conway and his colleagues sent a letter to the chairs and ranking members of key Senate and House committees expressing support for the Protecting Financial Aid for Students and Taxpayers Act.

“I’m grateful for the support of more than a dozen attorneys general from across the country who understand that in these tough fiscal times, it’s imperative that every taxpayer dollar be spent wisely and responsibly,” said Sen. Hagan, a member of the Health, Education, Labor and Pensions Committee.

For-profit industry facts included in the letter:

- ▶ Fifteen of the largest for-profit education companies received at least 86 percent of their revenues from federal student aid programs, such as the G.I. Bill and Pell grant programs.
- ▶ In fiscal year 2009, these for-profit education companies spent \$3.7 billion dollars (23 percent of their budgets) on advertising, marketing and recruitment, which was often very aggressive and deceptive.
- ▶ Together, the 30 education companies examined by the HELP Committee spent \$4.2 billion on marketing in 2009 or 22.7 percent of all revenue, which equates to \$2,622 per student.

A copy of the letter is available at <http://goo.gl/7Qksh>.

Combating Abuse in the For-Profit College Industry

- General Conway continues to lead a national bipartisan effort to examine potential abuses in the for-profit college industry. There are currently 32 states involved in the working group.
- General Conway filed suit in July of 2011 against Daymar College and on September 27, 2011 against National College over allegations that the for-profit colleges violated Kentucky’s Consumer Protection Act. He filed a lawsuit against Spencerian college on January 16, 2013 alleging consumer protection violations.
- In August of 2011, General Conway’s office filed a motion to intervene in a whistle-blower suit against Education Management Corporation (EDMC), the parent company of Brown Mackie College, over allegations that the company illegally paid recruiters based on the number of students they enrolled in EDMC programs. A federal judge declined to let Kentucky intervene. Kentucky’s investigation into EDMC and Brown Mackie College continues.

Rural Law Enforcement to Receive Mobile Data Terminals

Following up on his pledge to put technology in the hands of police officers across the Commonwealth, General Conway distributed mobile data terminals (MDTs) to help rural law enforcement officers process electronic warrants. A total of 78 rural law enforcement agencies will receive the MDTs, enabling officers to enter information into the in-car computer during a traffic stop or after responding to a scene. They can instantly assess a potential threat level and find out if a person has an outstanding warrant. General Conway personally presented MDTs to local law enforcement in Carroll and Franklin counties.



“This helps put technology in the hands of officers while they are out in the field,” General Conway said. “It gives officers the tools they need to almost instantly determine whether or not a person has an outstanding warrant.”

The Office of the Attorney General purchased the MDTs utilizing funds from the Rural Law Enforcement Grant that was part of the American Resources and Recovery Act. The office received the \$3.94 million grant in 2009 to implement the eWarrants program statewide. The eWarrants program is now up and running statewide and the distribution of MDTs is the final phase of implementation. The service rate for warrants has gone from an estimated low of 10 percent in areas using solely a paper-based system, to a statewide average service rate of more than 80 percent.

More information, including complete list of law enforcement agencies receiving MDTs <http://goo.gl/0FpmO>

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General Conway and his Keep Kentucky Kids Safe Program Win Praise in Boone, Clark and Jessamine Counties

School officials and community leaders in Boone, Clark and Jessamine counties are praising Attorney General Conway and his Keep Kentucky Kids Safe prescription drug abuse awareness initiative.



Attorney General Conway, Van Ingram, and Dr. Karen Shay at West Jessamine High School

“General Conway has been an outstanding supporter of young people because of his advocacy to do something about this terrible drug situation that grips this entire nation,” said Senator Tom Buford, R-Nicholasville.

Sen. Buford made his remarks after General Conway spoke to hundreds of students at West Jessamine High School about the prescription drug epidemic, which kills more than 1,000 Kentuckians each year.

“The Keep Kentucky Kids Safe program partners are providing a valuable service to the children and families of the Commonwealth by raising awareness about the dangers of prescription drug abuse,” said Lu S. Young, Jessamine Schools Superintendent. “The health and safety of our students is a top priority for our district, and we are appreciative that Attorney General Conway is bringing this important message to Jessamine County.”

General Conway and his Keep Kentucky Kids Safe partners also won praise from Boone County school officials after speaking to more than 1,000 students at Camp Ernst Middle School on March 26.

“The Keep Kentucky Kids Safe program is supporting Boone County Schools in our efforts to raise awareness about the disastrous dangers of prescription drug abuse,” said Randy Poe, Boone County Schools Superintendent. “We appreciate Attorney General Conway bringing this imperative message to our district.”

General Conway will host his next Keep Kentucky Kids Safe programs on April 25, 2013 in Pike and Perry counties.

George Rogers Clark Students Recognized for Winning PSA

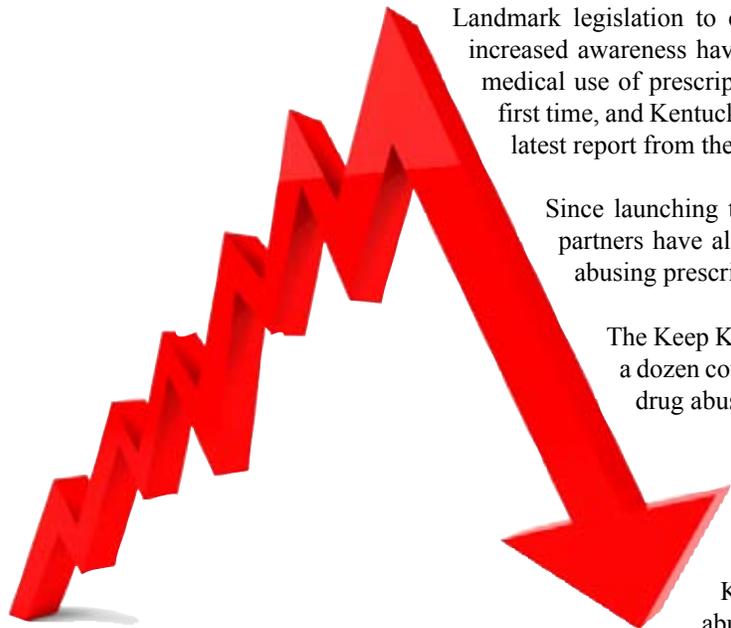
During a visit to George Rogers Clark High School on March 21, Attorney General Conway recognized members of the ASAP Youth Network for taking top honors in the 2012 Keep Kentucky Kids Safe PSA contest. The students received a check for more than \$500 for submitting the winning PSA. The video has been distributed to television stations across Kentucky and is posted on General Conway’s YouTube channel at <http://youtu.be/QbZL75z3iOo>



Have You Been Affected by Prescription Drug Abuse?

Attorney General Conway also invites Kentuckians, of all ages, to share their stories of how prescription drug addiction has affected their families and communities through his “Faces of Prescription Drug Abuse” video series. Videos may be submitted as part of a “video response” to any Faces of Prescription Drug Abuse clips available on the Attorney General’s website at <http://ag.ky.gov/rxabuse>.

Prescription Pill Abuse Declining in Kentucky



Landmark legislation to crack down on pill mills and overprescribing physicians combined with increased awareness have helped reduce prescription drug abuse in the Commonwealth. The non-medical use of prescription pain relievers among all age groups in Kentucky is down and for the first time, and Kentucky is below the national average for prescription drug abuse, according to the latest report from the Substance Abuse and Mental Health Services Administration.

Since launching the Keep Kentucky Kids Safe program in 2010, General Conway and his partners have alerted more than 20,000 middle and high school students to the dangers of abusing prescription medications.

The Keep Kentucky Kids Safe partners also launched a billboard campaign in more than a dozen counties in 2012 to warn the public out the deadly consequences of prescription drug abuse.

General Conway worked closely with Gov. Steve Beshear, House Speaker Greg Stumbo, Senate President Robert Stivers and other lawmakers to win passage of landmark legislation in 2012 to prevent the abuse and diversion of prescription pills in the Commonwealth. Since its passage, nearly half of Kentucky's pain clinics have shut their doors and prescriptions for the most abused and diverted drugs, like hydrocodone and Opana, are down 20 percent and almost 50 percent respectively.

General Conway also created Kentucky's first and only statewide Prescription Drug Diversion Task Force in 2009. The task force has been involved in more than 430 prescription drug diversion investigations, including Operation Flamingo Road, the state's largest prescription drug bust that resulted in the arrests of more than 500 people.

Attorney General Conway's office has also filed suit against Purdue Pharma, the manufacturer of OxyContin, for misrepresenting the addictive nature of the drug. A federal appeals court ruling has cleared the way for the case to be heard in Pike Circuit Court.

In addition to the work being done here in the Commonwealth, General Conway reached across party lines to work with Florida Attorney General Pam Bondi to ensure that her state implemented an electronic prescription drug monitoring system similar to Kentucky's KASPER system. Together they have worked to shut down the pill pipeline between Florida and Kentucky and to see that all 50 states have electronic prescription drug monitoring programs in place and that all of the programs can share data across state lines.

Attorney General Conway currently serves as co-chair of the Substance Abuse Committee of the National Association of Attorneys General (NAAG).

Attorneys General Urge FDA to Make Generic Pain Pills Harder to Abuse



Attorney General Conway joined his colleagues in 47 other states in urging the FDA to make generic pain pills harder to abuse. In a letter sent by the National Association of Attorneys General (NAAG), the Attorneys General asked the U.S. Food and Drug Administration (FDA) to adopt standards requiring manufacturers and marketers of generic prescription painkillers to develop tamper-and abuse-resistant version of their products.

"Prescription drug abuse is an epidemic that kills more than 1,000 Kentuckians each year," said General Conway, who co-chairs NAAG's Substance Committee. "Adding new physical and chemical features to prescription opioids to deter abuse could reduce misuse of these drugs and save lives in communities across Kentucky and the nation."

Attorney General Conway, along with Alabama Attorney General Luther Strange, Florida Attorney General Pam Bondi and North Carolina Attorney General Roy Cooper, led the effort to get state Attorneys General to write to the FDA about this important issue.

Link to the AGs Letter to the FDA: <http://goo.gl/y6nGH>

States Resolve Privacy Concerns in \$7 Million Multistate Settlement Over Google's Street View Program

Attorney General Jack Conway joined 37 other states and the District of Columbia on March 12 in announcing a \$7 million settlement with Google over privacy concerns involving the capture of consumers' and businesses' private WiFi data by its Street View service. Google's Street View program used specially equipped vehicles to capture images between 2008 and 2010 for use in Google's future geolocation services. However, it was later discovered that these vehicles were also collecting information from unsecured WiFi networks as they rolled by homes and businesses on public streets.



“We have worked closely with the other states over the past two years to investigate this issue and negotiate an Assurance of Voluntary Compliance that will better protect consumers,” said General Conway, co-chair of the Consumer Protection Committee of the National Association of Attorneys General (NAAG). “Among other things, this settlement requires Google to implement a public service campaign to educate consumers on how to better secure their personal information while using wireless networks and to continue its privacy program. This is a fair resolution that recognizes the privacy rights of individuals whose information was collected without their permission.”

General Conway's Office of Consumer Protection participated in the investigation of this case. General Conway was also a member of the executive committee that negotiated the settlement, along with the Attorneys General of Connecticut, Arizona, Florida, Illinois, Massachusetts, Missouri and Texas.

Kentucky will receive more than \$315,000 under the settlement.

A copy of the Assurance of Voluntary Compliance: <http://goo.gl/vjtJw>

Kentucky Participates in \$22.5 Million Settlement with Par Pharmaceutical Companies

General Conway announced on March 6 that Kentucky joined with other states and the federal government in reaching a \$22.5 million criminal and civil settlement with Par Pharmaceutical Companies, Inc. The settlement resolves allegations that the drug company promoted sales of the drug Megace ES (Megestrol Acetate) for uses not approved as safe and effective by the Food and Drug Administration (FDA), and not covered by state Medicaid programs.

“This is another example of a drug company that has put profits ahead of patient care,” General Conway said. “I am pleased that we were able to work with our state and federal partners to recover money for the Medicaid program and for Kentucky taxpayers. This settlement will also ensure that Par does not engage in these illegal marketing activities in the future.”

Par, headquartered in Woodcliff Lake, New Jersey, manufactures and markets Megace, which had been approved by the FDA to relieve the symptoms and reduce the suffering caused by advanced breast and endometrial (uterine) cancer, and as an appetite stimulant to prevent malnutrition and severe weight loss in advanced cancer and acquired immunodeficiency syndrome (AIDS) patients.

The states and federal government allege that Par was aware of severe adverse side effects associated with the use of Megace to treat elderly patients, but nevertheless launched a long-term marketing campaign that deliberately and improperly targeted elderly patients living in nursing homes with weight loss problems.

As a result of the settlement, the Kentucky Medicaid program will receive more than \$115,800, of which it will retain approximately \$35,000 after reimbursing the federal government for its share. Par will also plead guilty to the criminal charge of improperly introducing a mis-branded drug into interstate commerce in violation of the Food, Drug, and Cosmetic Act.





MEDICAID FRAUD & ABUSE

Warren County Man Sentenced to Five Years in Prison for Defrauding Program that Aids Mentally Challenged Youth

Warren Circuit Judge Steve Wilson on March 26 sentenced the last of three defendants in connection with a scheme to defraud LifeSkills, Inc. and the Kentucky Medicaid Supports for Community Living (SCL) program. LifeSkills, Inc., based in Bowling Green, Ky., provides services to mentally challenged or developmentally disabled individuals as part of the SCL program.

Timothy Schwartz received a five-year prison sentence following his guilty plea earlier this year 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 was also ordered to pay more than \$4,000 in restitution to LifeSkills.

The charges against Schwartz were the result of an investigation by General Conway's Medicaid Fraud and Abuse Control Unit and the Cabinet for Health and Family Services' Office of the Inspector General.

"The victims in this case are disabled children and teenagers, who are among our most vulnerable citizens," General Conway said. "I am proud of the work we are doing in the Office of the Attorney General to protect Kentuckians from abuse, neglect and exploitation. I am also grateful to the Office of Warren County Commonwealth's Attorney Chris Cohron for assisting in this case."

Schwartz's accomplices, Mark and Mandy Huff, pled guilty in February 2013 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.

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

In 2012, 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 is 1-877-228-7384.



Owner of Bluegrass Women's Healthcare in Elizabethtown Faces Fraud Charges Following Attorney General's Investigation

The owner of Bluegrass Women's Healthcare in Elizabethtown, Ky. is facing numerous charges including health care fraud, mail fraud, misbranding and smuggling following a more than three year investigation by General Conway's Office of Medicaid Fraud and Abuse Control, the United States Food and Drug Administration (FDA) and the FBI.

Forty-five-year-old Canh Jeff Vo, the owner, supervising physician and president of Bluegrass Women's Healthcare between March 2008 and September 2009 was named in the 13-count federal grand jury indictment announced on March 21 by David J. Hale, United States Attorney for the Western District of Kentucky.

Vo offered gynecological and obstetric services to women at Bluegrass Women's Healthcare, including providing forms of birth control. According to the federal indictment, between March 2008 and September 2009, Vo, with the intent to defraud or mislead, purchased and inserted into patients, foreign, non-FDA approved Mirenas (levonorgesteral-releasing intrauterine device). These Mirena intrauterine devices, or IUDs, were misbranded in that their labeling was not in English and their labeling did not bear adequate directions for use.

Additionally, Vo is charged with health care fraud for submitting false claims for reimbursement from the Medicaid Program. Vo is alleged to have billed the Kentucky Medicaid Program and other insurers as if he was administering the FDA-approved version of Mirena, at a greater cost, when he was actually administering a non-FDA approved version of Mirena.

If convicted, Vo faces a maximum of 233 years in prison, a maximum fine of \$3 million and up to three years of supervised release.

Lexington Man Facing Child Pornography Charges Following Cybercrimes Investigation

A Lexington, Ky. man was arrested on March 22 and charged with two counts of possession of matter portraying a sexual performance by a minor, following an investigation by General Conway's Cybercrimes Unit. Twenty-five-year-old Erik Hentzen was released from the Fayette County Detention Center after posting a \$5,000 cash bond.

In November of 2012, General Conway's Cybercrimes investigators became aware of an unknown individual accessing an unsecured wireless connection in Lexington. Following an extensive investigation, investigators tracked the unauthorized access to Hentzen's residence in Lexington. Cybercrimes investigators uncovered suspected child pornography during the execution of a search warrant at Hentzen's home.

The Attorney General's investigation is ongoing, and additional charges are likely. Assistance in this case was provided by the Lexington Police Department. The Office of Fayette County Commonwealth's Attorney Ray Larson is handling the prosecution of Hentzen. A charge is merely an accusation and a defendant is presumed innocent until and unless proven guilty.

Since its creation in June of 2008, General Conway's Cybercrimes Unit has launched more than 300 child pornography investigations and seized more than 360,000 child pornographic images and videos from the Internet. The unit is also a member of the Internet Crimes Against Children (ICAC) Task Force.

For additional information on cybersafety in Kentucky, visit General Conway's Cybersafety Page at <http://ag.ky.gov/cybersafety> . To report cyber abuse, call the CyberTipline at (800) 843-5678.



Attorney General Conway Obtains Refunds for Members of Now-Defunct Lexington Health Club



Hundreds of former members of a now-defunct health club in Lexington are receiving refunds thanks to Attorney General Conway and his Office of Consumer Protection. The Attorney General's Office successfully recovered lost membership fees totaling more than \$36,000 for nearly 600 members of Shapes, previously located at 3120 Pimlico Parkway. Shapes closed its doors in April 2012.

As required by Kentucky law, the facility had in place a \$50,000 bond for compensation of any member who suffers loss of money due to closure of the health spa. General Conway's office worked with the previous owner to obtain documentation for membership information, sent letters to affected members and placed legal notices in the newspaper. As a result, 583 consumers will receive refunds.

General Conway encourages consumers to consider these helpful reminders prior to joining a health club:

- ▶ Make sure the health club is registered with the Office of the Attorney General.
- ▶ Be sure to tour the facility to make sure the club offers the type of equipment and programs you want.
- ▶ Ask the club owner to show you that the club is bonded. If it isn't bonded, ask why it is exempt from bonding.
- ▶ Be sure to review the contract before signing. Never sign a blank contract.
- ▶ Consumers may cancel their contract within three business days of purchase by notifying the health spa in writing.

If you are a former customer of Shapes New Dimensions in Lexington, Ky., and believe that you are entitled to a refund, but have not been contacted yet, please call the Attorney General's Office at 502-696-5300.