



KENTUCKY

General News



April 2013

General Conway Wraps Up Spring Keep Kentucky Kids Safe Programs

After successful programs this spring in Bullitt, Marion, Jessamine, Clark, Boone, Perry and Pike counties, Attorney General Conway and his Keep Kentucky Kids Safe partners are looking forward to visiting more schools in the fall to raise awareness about the dangers of abusing prescription drugs. It's a message the partners have carried to more than 20,000 middle and high school students in nearly three dozen counties across Kentucky.

"Awareness is a key component in our fight against prescription drug abuse," General Conway said. "I will continue carrying our message to students across Kentucky to ensure that we don't lose another generation to this scourge."

General Conway joined with concerned parents and state and law enforcement partners to launch Keep Kentucky Kids Safe in the fall of 2010. Operation UNITE is among the Keep Kentucky Kids Safe partners.



"Educating children at an early age about the dangers posed by prescription drugs is essential to preventing addictive behavior and saving lives," said Dan Smoot, Vice President of Operation UNITE, which serves 32 counties in southern and eastern Kentucky and currently has nearly 9,000 student UNITE club members.

School officials in both Perry and Pike counties praised the school programs and efforts to raise awareness among middle and high school students about the dangers of prescription drug abuse.

"The work being done by Attorney General Conway and Operation UNITE to prevent the abuse of prescription pills and other illicit drugs is truly saving lives," said Perry County School Superintendent Jonathan Jett. "There is nothing more important than the safety and wellbeing of our students."

Pike County School Superintendent Roger Wagner calls Keep Kentucky Kids Safe program "powerful"

"The abuse of prescription drugs is an issue that affects the lives and futures of students in Pike County and across Kentucky. This is a powerful message for our kids," said Wagner.

Bring Keep Kentucky Kids Safe to Your Community

If you would like Attorney General Conway and his Keep Kentucky Kids Safe partners to visit a school in your community email stoprxabuse@ag.ky.gov



FDA Heeds Bipartisan Advice of State Attorneys General and Blocks Generic, Crushable OxyContin

The Food and Drug Administration (FDA) took to heart the pleas from Attorney General Conway and his colleagues to block approval of generic versions of the powerful painkiller OxyContin. In a letter to the FDA, the National Association of Attorneys General (NAAG) urged the agency to adopt standards requiring manufacturers and marketers of generic prescription opioids to develop tamper-resistant versions of those products.

“I am extremely pleased that the FDA heeded the bipartisan advice of state attorneys general and policymakers throughout Kentucky and elsewhere,” said General Conway. “To have allowed generic, crushable oxycontin on the market would have been a serious step backwards in our efforts against opiate painkiller abuse.”



The FDA announced on April 16 that it would not approve generic versions of the original formulation of OxyContin. The original version of the painkiller, which was approved in late 1995, could be easily crushed and abused, fueling an epidemic of prescription drug abuse in Kentucky and the nation. In 2010, Purdue Pharma reformulated the drug so that it was less prone to tampering.

General Conway serves as Co-Chair of NAAG’s Substance Abuse Committee along with Florida Attorney General Pam Bondi. Generals Conway and Bondi have worked closely to shut down the pill pipeline between Florida and Kentucky and to see that all 50 states have prescription drug monitoring programs in place and that all of the programs can share data across state lines.

Attorney General Conway’s Office has also filed suit against Purdue Pharma for misrepresenting the addictive nature of OxyContin. A federal appeals court ruling earlier this year cleared the way for the case to be heard in Pike Circuit Court.

Generals Conway and Coakley Issue Scam Warning in Wake of Boston Bombings



With donations pouring in from around the country, Attorney General Conway and Massachusetts Attorney General Martha Coakley warned consumers to be leery of scams in the wake of the Boston marathon bombings.

Dozens of fake websites emerged on the Internet within hours of the twin explosions. Generals Conway and Coakley said the best way to support victims of this tragedy is to donate to reputable organizations such as the American Red Cross or The One Fund Boston.

“After the unconscionable attack at the Boston Marathon, there has been an outpouring of support from people who want to help,” General Coakley said. “We urge people from Massachusetts and across the country to continue to support the victims and those impacted by this horrific event. We also encourage people to do their homework on the charity before giving to ensure their money will go to the purpose they intend.”



Massachusetts Attorney General Martha Coakley

Tips for Wise Giving from Generals Conway & Coakley

- ▶ If you are contributing over the Internet, make sure that the website you are visiting belongs to a legitimate, established, and registered charity, and that the website and the charity match. Also, you should make sure the site is secure and will offer protection for your credit card number.
- ▶ Check to see if the charity is registered and filing with the Office of the Attorney General in your state. Registration and filing information can be obtained online for Massachusetts at www.mass.gov/ago/charitiesreports or in Kentucky by visiting <http://ag.ky.gov/civil/consumerprotection/charity/>
- ▶ Know your charity. Take the time to verify the address, phone number, contact information, and review the website and written material, when possible. Consider a charity’s history, purpose, track record, percentage of donations that goes to those in need and reputation. Never give to a charity you know nothing about. If you have any doubts, well-established charities with experience in disaster relief or organizations established with support from government agencies are generally a good choice.
- ▶ Check out websites such as Charitynavigator.org and www.BBB.org/charity, where you will find additional information to help you understand a large number of charities.
- ▶ Be wary of appeals that are long on emotion. A legitimate charity will tell you how it’s using your money to address this horrific disaster.

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

Attorney General Briefs Kentucky's County Clerks on Efforts to Help Struggling Homeowners

Kentucky's participation in the historic \$25 billion national mortgage foreclosure settlement has brought nearly \$58 million to the Commonwealth to aid homeowners and communities. That was the message Attorney General Conway shared with members of the Kentucky County Clerk's Association at its annual meeting on April 17. He also briefed County Clerks about the lawsuit he filed earlier this year against MERSCORP Holdings, Inc. and its wholly owned subsidiary Mortgage Electronic Registration System, Inc. (MERS) for violations of Kentucky law.

"Kentucky's statute is clear," General Conway said. "It requires mortgage assignments to be recorded with County Clerks. MERS directly violated that law by creating this system that provides no public record of sales or transactions and deliberately circumvents paying recording fees to states. Since MERS creation in 1995, we believe its members have avoided paying more than \$2 billion in recording fees nationwide."

General Conway said he is proud of his efforts to hold banks accountable and to provide second chances to those who were wrongfully foreclosed upon. To date, the five banks that participated in the national mortgage foreclosure settlement have reported providing assistance to 1,562 Kentuckians.



Attorney General Files Civil Suit Against Elizabethtown Doctor for Use of Non-FDA Approved Birth Control Device

A civil lawsuit filed by Attorney General Conway's Office of Medicaid Fraud and Abuse Control accuses Elizabethtown osteopath Dr. Canh Jeff Vo of filing false claims with the Kentucky Medicaid Program. Dr. Vo allegedly inserted foreign Mirena intrauterine devices (IUDs) that had not been approved by the U.S. Food and Drug Administration into Kentucky Medicaid recipients. The lawsuit further alleges that Dr. Vo did not inform his patients that they were receiving non-FDA approved IUDs.

"The allegations we have outlined in our lawsuit are extremely troubling," General Conway said. "We take very seriously our obligation to ensure the safety of patients in Kentucky and to hold accountable businesses that put profits ahead of patient care. We will seek to recover damages, restitution and civil penalties on behalf of the Kentucky Medicaid program."

Unless a prescription drug has been approved for safety and effectiveness by the FDA, it cannot legally be purchased, possessed, delivered, or sold in the United States. And, a prescription drug that has not been approved by the FDA does not qualify as a "covered outpatient drug" under the Medicaid program and is not eligible for Medicaid reimbursement. Because the IUDs inserted into Kentucky Medicaid recipients had not been approved by the FDA, they were ineligible for Medicaid reimbursement and the claims submitted to Kentucky Medicaid were false.

On March 21, 2013, David J. Hale, the United States Attorney for the Western District of Kentucky, announced that a federal grand jury had indicted Dr. Vo on 13 counts of health care fraud, mail fraud, misbranding and smuggling. The indictment resulted from a joint investigation by General Conway's Medicaid Fraud and Abuse Control Division and the FDA. Dr. Vo's trial in federal court is currently set for May 22, 2013.

Former EKU Director Indicted on Tax Fraud Charges

The former director of Eastern Kentucky University's Training Resource Center at the College of Justice and Safety is facing indictment on tax fraud charges. A Franklin County grand jury indicted 44-year-old Michael Jones of Lexington on six counts of willful filing of false tax returns with the Kentucky Department of Revenue for the tax years 2005 through 2010.

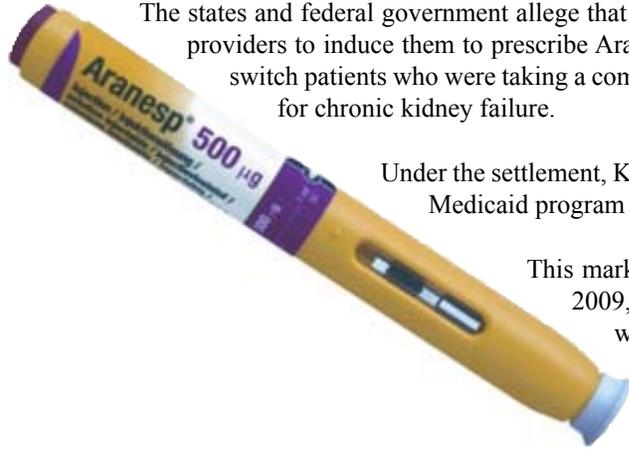
The charges against Jones are the result of an investigation by the Department of Revenue's Division of Special Investigations, which identifies and investigates state tax crimes and prepares cases for prosecution. Prosecution of the case is being handled by General Conway's Office of Special Prosecutions.

The charges against Jones are Class D felonies punishable by one to five years in prison each. If convicted, Jones would also be subject to a fine of up to \$10,000 or double the amount of fraud, whichever is greater.

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

Attorney General Announces \$25 Million Settlement with Drug Company Amgen, Inc.

Kentucky has joined the federal government and other states in reaching a nearly \$25 million settlement with Amgen, Inc. over allegations of illegal marketing of the drug Aranesp. The United States Food and Drug Administration (FDA) approved Aranesp for use in treating anemia associated with chronic kidney failure.



The states and federal government allege that Amgen made illegal payments to nursing homes and other long-term care pharmacy providers to induce them to prescribe Aranesp. The drug manufacturer also allegedly pressured long-term care pharmacists to switch patients who were taking a competitor's drug to Aranesp, including patients who had never been diagnosed or treated for chronic kidney failure.

Under the settlement, Kentucky will receive \$351,846. After reimbursing the federal government, Kentucky's Medicaid program will retain \$99,490 as its state share.

This marks Attorney General Conway's third recovery from Amgen in the last three years. In 2009, Amgen paid \$2.4 million to settle claims that it published false and inflated average wholesale prices used by Kentucky Medicaid to calculate Medicaid drug reimbursement rates. In 2012, Amgen paid \$614 million to settle claims that it illegally marketed a number of drugs for so-called "off-label" uses that were not medically accepted and had not been approved by the FDA.

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.

Owsley County Clerk Pleads Guilty to Charges of Tax Evasion, Abuse of Public Trust

An investigation by the Office of the Attorney General and Department of Revenue has resulted in the guilty plea of Owsley County Clerk Sid Gabbard to charges of tax evasion and abuse of public trust. Gabbard entered the guilty plea on Friday, April 26, 2013 in Franklin Circuit Court to three counts of abuse of public trust and three counts of willfully filing or making false tax returns, and/or failure to pay tax. The plea agreement also required Gabbard to resign as Owsley County Clerk and pay \$61,118 in restitution to the Commonwealth of Kentucky.

General Conway's Department of Criminal Investigations (DCI) and the Department of Revenue's Division of Special Investigations launched an investigation of Gabbard in January of 2013 based on a 2010 audit report released in June of 2012 by the Kentucky Auditor of Public Accounts.

"The citizens of Owsley County elected Sid Gabbard to represent them with honesty and integrity," General Conway said. "Mr. Gabbard betrayed that public trust. He treated public funds as his own at a time when communities across the Commonwealth have struggled to fund vital programs and protect services. I am pleased that the plea agreement calls for Mr. Gabbard's immediate resignation and payment of more than \$61,000 in restitution and back taxes."



The Attorney General's investigation revealed that Gabbard withheld state income tax from employees' checks, but instead of sending the money to the state he used it as his own. Prosecution of this case is being handled by the Office of Franklin County Commonwealth's Attorney Larry Cleveland.

Kentucky Receives More than \$101 Million in Tobacco Settlement Money

Kentucky received its annual payment of more than \$101 million in tobacco settlement money in April. The payments are required under the 1998 Master Settlement Agreement (MSA) between the major tobacco manufacturers and 52 states and territories.

“The money Kentucky receives each year from the MSA provides funding for many invaluable programs –from agriculture to education,” General Conway said. “My office continues to closely monitor and enforce the agreement and stands ready to defend actions brought to challenge it in both state and federal courts.”



Under the MSA, the tobacco companies agreed to make annual payments in perpetuity to the settling states, to fund a national foundation dedicated to significantly reducing the use of tobacco products by youth and to abide by certain restrictions on promotional and lobbying activity. Kentucky’s share of the settlement is approximately \$3.45 billion over the first 25 years. Payments are determined according to a formula that is calculated, in part, by the number of cigarettes sold by companies that have agreed to join the settlement. This year’s payment to Kentucky totals \$101,662,576.

More information — <http://migration.kentucky.gov/Newsroom/ag/tobacomoney2013.htm>

Two Sentenced in Nicholasville Home Invasions

Attorney General Conway and his Office of Special Prosecutions announced the sentencing April 14 in Jessamine Circuit Court of two Nicholasville residents in connection with a string of home invasions between July and September 2012.

Twenty-eight-year-old Erick Reynolds received a 10-year sentence after pleading guilty on February 8 to nine counts of burglary 2nd degree and one count of theft by unlawful taking. Reynolds also pled guilty to being a persistent felony offender in the 2nd degree and admitted he broke into eight different homes, one of them twice, as well as a vehicle. Reynolds stole jewelry and other valuables and then sold them at a pawn shop. At the time of the thefts, Reynolds was on probation for a 2011 burglary conviction for which he received an eight-year sentence. The sentence imposed today will run consecutively with the eight-year sentence.



Also sentenced today was 32-year-old Shaylin Floyd who received five years in prison on nine counts of burglary 2nd degree for her role in the burglaries committed by Reynolds. Floyd admitted she drove Reynolds to the homes that were burglarized and assisted in obtaining cash for the stolen items. Floyd’s sentence will run consecutively to a one year sentence for theft in Fayette County, for which Floyd was on probation at the time of the Jessamine County burglaries.



The charges against Reynolds and Floyd were the result of an investigation by the Nicholasville Police Department and Jessamine County Sheriff’s Office.

Attorney General Files Consumer Protection Action Against Central Kentucky Monument Company

Attorney General Conway and his Office of Consumer Protection filed a motion in Franklin Circuit Court on April 26 to enforce a Consent Judgment against Donald R. Curtis, a Central Kentucky seller and installer of cemetery monuments and headstones doing business under the name of Resource Granite Sales.

Affidavits obtained by the Attorney General indicate that Resource Granite Sales has not complied with the Consent Judgment by failing to timely install monument orders or make refunds to consumers, failing to provide certain disclosures to consumers when taking advance payments from them, and failing to accurately report to the Attorney General all contracts outstanding as of the Consent Judgment.

General Conway’s Office began investigating Resource Granite Sales in 2012 after receiving consumer complaints regarding the cemetery monument business, which operates primarily in Central Kentucky. A Consent Judgment, which was approved by the Franklin Circuit Court on July 10, 2012, was reached to resolve the Attorney General’s allegations that the business violated the Kentucky Consumer Protection Act.

“Before doing business with a company you are not familiar with, make sure you’ve done your homework,” General Conway said. “Check with the Better Business Bureau or call my Office of Consumer Protection at 1-888-432-9257 to learn more about a business. Also, demand a written contract and never pay in advance.”

The motion asks the court to enjoin the defendant from making further sales or contacting new customers until existing contracts are fully performed or refunded.



CYBERCRIMES

Lexington Man Sentenced to 103 Months for Receiving Child Pornography

A Lexington man is facing 103 months in prison after admitting in federal court that he downloaded child pornography. U.S. District Judge Karen Caldwell sentenced 33-year-old Jason Daniel Meade on April 12 for receiving child pornography and ordered Meade to remain under the supervision of the U.S. Probation Office for the rest of his life. The charges against Meade were the result of an investigation by General Conway's Cybercrimes Unit and the FBI.

According to court documents, Meade downloaded hundreds of images of minors engaged in sexually explicit conduct. Meade's sentence was enhanced because many of these images contained minors under the age of 12 and some were sadistic and violent in nature.

In September 2011, General Conway's Cybercrimes investigators identified a computer in Lexington that was offering child pornography for downloading. Authorities traced the location of the computer to a locked room that Meade kept at his mother's residence. During the execution of a search warrant at the residence, law enforcement found the images of child pornography on two computers and a CD.

Under federal law, Meade must serve at least 85 percent of his prison sentence and must register as a sex offender when he is released.

Kenton County Man Faces Child Pornography Charges

An investigation by General Conway's Cybercrimes investigators led to the arrest of 64-year-old Timothy Johnston of Independence, Ky. on April 6. Johnston is charged with five counts of distribution of matter portraying a sexual performance by a minor and one count of possession of matter portraying a sexual performance by a minor.



Johnston entered a not guilty plea to the charges during his arraignment in Kenton District Court. The charges against Johnston follow a month-long investigation by General Conway's Cybercrimes Unit that began in March 2013 after the Unit received a complaint from the National Center for Missing and Exploited Children and AOL that an Internet user had transmitted images of children engaged in sexual acts via email. Cybercrimes investigators executed a search warrant at Johnston's Oakgrove Court residence on April 3 and an arrest warrant was issued after a review of computers seized from Johnston's home uncovered suspected child pornographic images.

Additionally, General Conway's investigators contacted the state Cabinet for Health and Family Services regarding the investigation after learning that Johnston had two foster children in his care.

All of the charges against Johnston are Class D felonies and carry a penalty of one to five years in prison and registration as a sex offender he is convicted.

Prosecution of this case is being handled by the Kenton County Commonwealth's Attorney's Office. A charge is merely an accusation and a defendant is presumed innocent until and unless proven guilty.

Cybercrime Unit Achievements

Since its creation in June of 2008, General Conway's Cybercrimes Unit has launched more than 300 child pornography investigations and seized more than 400,000 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, visit the CyberTipline or call 1-800-843-5678.