



KENTUCKY

General News



November 2013

Attorney General Conway Takes Drug Abuse Prevention Message to Woodford & Knott Counties

Attorney General Conway took his Keep Kentucky Kids Safe program to Woodford and Knott counties during the month of November, warning approximately 1,870 students about the dangers of prescription drug abuse.

“These are some of the most addictive substances on the planet,” General Conway told students at Woodford County and Knott County Central high schools. “We’re losing more people to prescription drug overdoses than car accidents. If you take a pill that isn’t prescribed to you by a doctor, you are playing a very dangerous game.”

Nationally, prescription painkillers are the leading cause of accidental death in the United States. A report released in October by Trust for America’s Health lists Kentucky as having the third-highest rate of fatal overdoses – the vast majority from prescription pills – in the country. Last year, there were about 220 million doses of the highly addictive painkiller hydrocodone dispensed in Kentucky. That’s 51 doses of the drug for every man, woman and child in the Commonwealth.



Woodford County HS



Knott County Central HS

Additionally, heroin is rapidly replacing prescription painkillers as the drug of choice in many parts of Kentucky because it is also an opiate, it’s cheaper to get and it mimics the same high people get from crushing and injecting opioid painkillers.

“It is imperative that all students are aware of the dangers and consequences of illegal drugs and substance abuse,” said Robert Pollard, principal at Knott County Central High School. “We are happy to partner with Attorney General Jack Conway to further educate our children about this important issue.”

“The Keep Kentucky Kids Safe message is a powerful one,” said Jennifer Forgy, associate principal at Woodford County High School. “I am very appreciative of all the great work General Conway has done for our state tackling the prescription drug issue, particularly in his partnership with Florida Attorney General Pam Bondi.”

General Conway reached across party lines to work with General 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 prescription drug monitoring programs in place and that all of the programs can share data across state lines. General Conway and General Bondi serve as co-chairs of the National Association of Attorneys General Substance Abuse Committee.

General Conway was joined in Woodford County by Van Ingram, executive director for the Office of Drug Control Policy, and Mike Donta, a concerned parent who lost his son to prescription drug overdose. Two representatives from Operation UNITE, Carl Varney and Paul Hays, joined General Conway to help deliver the Keep Kentucky Kids Safe message to students at Knott County Central.

Since launching the Keep Kentucky Kids Safe program in 2010 with the Kentucky Office of Drug Control Policy, Kentucky Pharmacists Association, National Association of Drug Diversion Investigators (NADDI), Operation UNITE and concerned parents, General Conway and his partners have alerted more than 30,000 students, teachers and parents to the dangers of abusing prescription drugs and heroin.

Bell County Clerk & Three Deputy Clerks Arrested Following Investigation



Rebecca Blevins



Flora Ferrell



Kayla Carnes



Connie Watkins

The Bell County clerk and three deputy clerks are facing criminal charges following an investigation by General Conway's Department of Criminal Investigations (DCI).

Bell County Clerk Rebecca Blevins, 45, and deputy clerks Flora Ferrell, 55, Kayla Carnes, 23, and Connie Watkins, 40, were arrested Nov. 8 after the investigation identified more than 50 individuals who bought vehicles from outside of Kentucky and never received a tax refund that they were owed. The four employees are accused of keeping approximately \$12,200 in refunds.

The Office of the Attorney General received the case following an audit by the Kentucky State Auditor's Office. The investigation is ongoing.

Three Workers Indicted in Oakwood Manor Patient Neglect Investigation

Three former employees of Oakwood Manor in Somerset have been indicted on felony charges of abuse and neglect by a Pulaski County grand jury.

Twenty two-year-old Coty King, of Pine Knot, is charged with three counts of knowing abuse or neglect of an adult; 21-year-old Cody Burton, of Burnside, is charged with two counts of complicity to knowing abuse or neglect of an adult; and 22-year-old Timothy James Ball, of Pine Knot, faces one count of knowing abuse or neglect of an adult.

Both King and Burton were first arrested in September after King allegedly enticed a developmentally disabled adult patient at Oakwood Manor to hit another patient while King used his cell phone to record the incident. Burton was accused of participating in the incident and failing to report it. Further forensics review of video recovered from the cell phone led to the indictment of Ball for his involvement in another incident staged by King.

The Pulaski County Attorney's Office handled the original charges against King and Burton, which were dismissed pending the indictment on charges in Circuit Court announced in November.

The violations in this case are Class C felonies, punishable by up to five to 10 years in prison.



Coty King



Cody Burton

Franklin County Grand Jury Indicts Husband and Wife on Welfare Fraud Charges



A husband and wife from Nicholasville, Ky. are facing charges involving welfare fraud following their indictment by a Franklin County grand jury on Nov. 1.

Ala Samaan, 45, and Taghreed Samaan, 41, are charged with one count of scheming to defraud an assistance program. The pair is accused of obtaining more than \$10,000 in Kentucky Medicaid benefits by fraud.

Ala Samaan is an officer in several different corporations in Kentucky, including those that do business as Clucker's, a convenience store and gas station in Wilmore. He is a former partner in J.D. Legends, an entertainment complex with locations in Nicholasville and Franklin, Ohio. The indictment stems from investigations conducted by the OAG Department of Criminal

Investigations. The case is being prosecuted by General Conway's Office of Special Prosecutions.

Scheming to defraud an assistance program is a Class C felony, carrying a penalty of five to 10 years in prison. If convicted, the two could also face a fine of up to \$60,000, in addition to having to repay the Kentucky Medicaid program.

General Conway Announces Arrest Following Investigation by Medicaid Fraud and Abuse Control

General Conway announced the arrest and indictment of a Lexington, Ky. man on Nov. 15 following an investigation by the OAG Medicaid Fraud and Abuse Control Division.

A Fayette County grand jury indicted Ahmad Davis, 28, on one count of theft by deception of more than \$10,000 and one count of devising or engaging in a scheme to defraud the Kentucky Medical Assistance Program over \$300.

The indictment alleges that Davis submitted false and fraudulent timesheets for payment of services to a Medicaid recipient. The recipient should have been receiving services as part of the Consumer Directed Option (CDO) administered by the Cabinet for Health and Family Services' Department for Aging and Independent Living. The CDO program allows certain Medicaid recipients freedom to choose their own providers and flexibility in the delivery of services, while accessing community programs. It is alleged that Davis submitted timesheets in which he claimed to have provided caregiving services that he did not actually perform.



Theft by deception of \$10,000 or greater is a Class C felony and carries a potential sentence of five to 10 years in prison. Intent to defraud the Kentucky Medical Assistance Program over \$300 is a Class D felony with a potential sentence of one to five years in prison and a fine from \$1,000 to \$10,000.

General Conway Announces Indictment of Northern Kentucky Chiropractor

A chiropractic clinic owner in northern Kentucky is facing charges after she allegedly conspired to defraud a federal health care benefit program.

On Nov. 15., a federal grand jury in Covington returned the indictment charging 47-year-old Dr. Andrea Almond, of Cincinnati, with one count of conspiracy to commit health care fraud.



General Conway, along with Kerry B. Harvey, U.S. Attorney for the Eastern District of Kentucky, the Federal Bureau of Investigation and the United States Postal Inspection Service, jointly made the announcement. The investigation was handled by General Conway's Medicaid Fraud and Abuse Control Division, the Federal Bureau of Investigation and the United States Postal Inspection Service.

The indictment alleges that from Sept. 2008 until April 2010, Dr. Almond, a chiropractor and owner of Newport Chiropractic in Campbell County, allegedly submitted health care claims to Medicaid for chiropractic services that she did not perform or witness. Additionally, the indictment alleges that Dr. Almond was aware the chiropractors who did perform the services were not enrolled as providers with Kentucky Medicaid and were not eligible for reimbursement.

According to the indictment, Dr. Almond submitted or caused to be submitted approximately 1,943 claims for payment in the approximate amount of \$483,797 and received approximately \$95,098 in actual reimbursement from Kentucky Medicaid.

If convicted, Almond could face a sentence of up to 10 years in prison

General Conway Announces Participation in \$149 Million Settlement with Johnson and Johnson

General Conway announced on Nov. 4 that Kentucky has settled Medicaid claims against pharmaceutical giant Johnson and Johnson (J&J) and its subsidiaries Johnson and Johnson Health Care Systems and Jansen Pharmaceuticals. The Medicaid claims arose from allegations that J&J paid kickbacks to Omnicare Inc., the nation's largest pharmacy specializing in dispensing drugs to nursing home patients.

In Jan. 2010, a civil case was filed in U.S. District Court in Massachusetts alleging that J&J paid millions of dollars in kickbacks to Omnicare

under the guise of market-share rebates, data-purchase agreements, grants and educational funding, to entice Omnicare and its consultant pharmacies to promote the use of the anti-psychotic drug Risperdal and other J&J drugs in nursing homes. As a result, Omnicare consultant pharmacists reviewed nursing home patient charts and made recommendations to physicians on what drugs should be prescribed to their patients. This resulted in Omnicare submitting what the federal government alleged were false claims to federal medical programs, including Medicaid. Five states, including Kentucky, joined this lawsuit.

“Oftentimes, physicians rely on consultant pharmacies to provide independent recommendations and advice,” General Conway said. “The payment of kickbacks to promote the use of a drug which might not be appropriate for a particular nursing home patient is unacceptable and it’s against the law.”

The Kentucky Medicaid program will receive more than \$2 million and the federal government will receive \$4.9 million for its share of Kentucky-related damages.

In November 2009, the federal government, numerous states, including Kentucky, and Omnicare entered into a \$98 million settlement agreement that, among other things, resolved Omnicare’s civil liability under the False Claims Act for taking kickbacks from J&J.

The Attorney General’s Tip Line for reporting allegations of fraud is **877 ABUSE TIP (877-228-7384)**.

Kentucky Joins Bipartisan Brief Opposing Cross-State Air Pollution Regulations

Kentucky has joined eight other states in a major brief filed in the United States Supreme Court opposing the U.S. Environmental Protection Agency’s (EPA) new rule on cross-state air pollution.

The amicus brief argues that the EPA exceeded its authority under the federal Clean Air Act (CAA) when the agency promulgated a rule in 2011 announcing new air pollution cuts and imposing federal implementation plans on states. The brief argues the CAA requires the EPA to give states an opportunity to decide how to meet new air pollution standards.

The brief was signed by a bipartisan group of attorneys general representing the states of West Virginia, Arizona, Arkansas, Kentucky, Missouri, Montana, North Dakota, South Dakota and Wyoming. It was filed in support of 15 other states, as well as industry groups and labor organizations, who sued EPA on this issue in 2011. In August 2012, the U.S. Court of Appeals for the D.C. Circuit struck down the regulation, saying that it “exceeds the agency’s statutory authority.” The Supreme Court agreed to review the rule earlier this year.

“Other state attorneys general and I are urging the nation’s highest court to uphold the appellate court decision and leave important questions about how states should meet new air pollution standards at the state level, as clearly spelled out in the Clean Air Act,” General Conway said.

According to the court of appeals’ opinion, “EPA’s rule defines emissions reduction responsibilities for 28 upwind States based on those States’ contributions to downwind States’ air quality problems. The Rule limits emissions from upwind States’ coal- and natural gas-fired power plants, among other sources. Those power plants generate the majority of electricity used in the United States.”

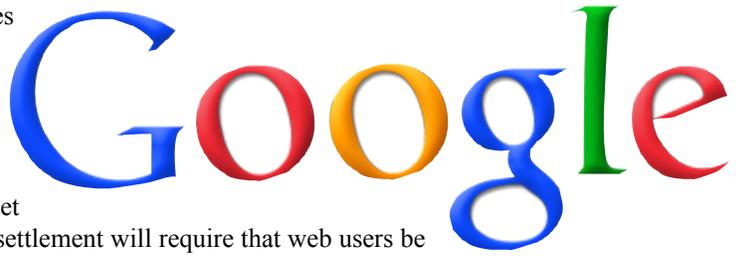


The court of appeals’ opinion held that EPA crossed the Clean Air Act’s “federalism bar” when EPA attempted to take away the states’ right to decide how to make cuts in air pollution within their borders. As the court explained, “a State may decide to impose different emissions limits on individual coal-burning power plants, natural gas-burning power plants, and other sources of air pollution, such as factories, refineries, incinerators, and agricultural activities.”

The parties to the case will present oral arguments before the Supreme Court in December. A decision is expected by next June.

General Conway Announces \$17 Million Multistate Settlement with Google

Attorney General Jack Conway has joined the attorneys general of 36 states and the District of Columbia in announcing a \$17 million settlement with Google Inc. over misleading representations regarding web browsing privacy while using certain Safari web browsers during 2011 and 2012. Kentucky will receive more than \$305,000 under the settlement.



“This Assurance of Voluntary Compliance will help consumers and Internet users to better protect their online privacy,” General Conway said. “This settlement will require that web users be accurately informed about how their personal information may be collected by cookies, and it will provide an additional resource for understanding how to set up their browser privacy settings.”

Google generates revenue primarily through advertising. Through its DoubleClick advertising platform, Google sets third-party cookies—small files set in consumers’ web browsers—that enable it to gather information about those consumers, which could include their web surfing habits. Apple’s Safari web browser is set by default to block third-party cookies, including cookies set by DoubleClick to track a consumer’s browsing history.

Google had been offering consumers the ability to opt out of having third-party advertising cookies set on their browsers through installing an advertising cookie opt-out plugin. On its web page describing that plugin, Google represented to Safari users that “Safari is set by default to block all third-party cookies. If you have not changed those settings, this option effectively accomplishes the same thing as setting the opt-out cookie.”

This statement was misleading to Safari users because it suggested that they would not receive third-party cookies, although Google later took active steps to circumvent Safari’s default settings for the purpose of setting third-party cookies.

From June 1, 2011 until Feb. 15, 2012, Google altered its DoubleClick coding to circumvent default privacy settings on Safari, without consumers’ knowledge or consent, enabling it to set DoubleClick cookies on consumers’ Safari web browsers. Google disabled this coding method in Feb. 2012 after the practice was widely reported on the Internet and in media.

The states claim that Google’s circumvention of the default privacy settings in Safari and failure to inform Safari users that it was circumventing their privacy settings, in light of its earlier representation that third-party cookies were blocked for Safari users, was misleading and violated state consumer protection and related computer privacy laws. To resolve these allegations, Google has agreed to pay the attorneys general \$17 million and agreed to injunctive relief that requires it to:

Not deploy the type of code used here to override a browser’s cookie blocking settings without the consumer’s consent unless it is necessary to do so in order to detect, prevent or otherwise address fraud, security or technical issues.

Not misrepresent or omit material information to consumers about how they can use any particular Google product, service, or tool to directly manage how Google serves advertisements to their browsers.

Improve the information it provides to consumers regarding cookies, their purposes, and how consumers can manage them using Google’s products or services and tools.

Maintain systems designed to ensure the expiration of the third-party cookies set on Safari web browsers while their default settings had been circumvented.

General Conway’s Office of Consumer Protection participated in the investigation of this case.

General Conway Encourages Parents to Monitor Children’s Video Game Content



General Conway is reminding parents and caregivers across the Commonwealth that while they are holiday shopping this season, they should be aware of the valuable tools they can use to monitor the content of their children’s video games. A recently launched national PSA campaign led by the Entertainment Software Association (ESA), along with its retail partners and other stakeholders, encourages parents to utilize the Entertainment Software Rating Board (ESRB) video game rating system and video game console parental controls.



“I applaud the ESA for creating this national awareness campaign,” General Conway said. “As a parent, making the right entertainment decisions for my children is incredibly important. This initiative will help keep thousands of parents informed when making video game purchases for their families, especially during the upcoming holiday season.”

The ESRB is a non-profit organization responsible for assigning age and content ratings for computer games, video games and apps. The ratings are designed to provide guidance to parents about the appropriateness of games they choose for their families. Additionally, new game consoles come with parental control systems, which give parents the ability to block games they don't want their children to play. The PSA campaign was created to further educate parents about the tools that are available to help them recognize age-appropriate games.

In addition to distributing the PSA to TV stations across the country, the ESA is collaborating with entertainment software companies to share the PSA on video game consoles, video game-specific websites, fan discussion websites, online stores and mobile devices to maximize the campaign's reach.

The national PSA on ESRB ratings and parental controls is available at <http://tinyurl.com/le2dcjj>.

Track Jack



General Conway catches up with WKYT's Bill Baker for a "Kentucky Newsmakers" taping.



General Conway tapes "Issues and Answers" with Steve Hensley at WYMT.



General Conway joins U.S. Secretary of Education Arne Duncan at an early learning town hall forum in Williamsburg, Ky.



Attorney General briefs local officials at the annual KACo Conference.



General Conway shares the latest news from the Office of the Attorney General at the KY AFL-CIO biennial meeting.