



KENTUCKY

General News

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Attorney General Conway Files Suit against Daymar College

Attorney General Jack Conway filed suit on July 27, 2011 against Daymar College, one of seven for-profit schools under investigation by his office. The lawsuit filed in Daviess County alleges that Daymar Learning, Inc., Daymar Learning of Paducah, Inc., Draughtones Junior College, Inc. Daymar Colleges Group LLC, Daymar Holdings, Inc. and their president Mark Gabis violated Kentucky's Consumer Protection Act by engaging in unfair, false, misleading, and deceptive trade practices.

The Attorney General's investigation of Daymar College predates the announced investigation into six other for-profit colleges in December of 2010. General Conway also continues to lead a national bipartisan effort to examine potential abuses in the for-profit industry, which now includes 20 states.

"As Attorney General, it is my job to ensure that businesses operating in Kentucky are following our Consumer Protection laws," General Conway said. "It is also my duty to ensure that consumers are not being taken advantage of as a result of unfair or false business practices."



Allegations against Daymar:

- ▶ Daymar deceived and misled students about their textbooks and financial aid forcing students into purchasing books/supplies from Daymar at substantially higher prices.
- ▶ Daymar provided false and misleading information to students about the transferability of credits earned at Daymar College.
- ▶ Some programs at Daymar do not meet the standards of its own institutional accrediting organization
- ▶ Daymar has enrolled some students who do not meet the school's criteria for admission or general standards for admission to career colleges.

Proprietary schools like Daymar College obtain nearly 90 percent of their revenue from federal taxpayer dollars and account for nearly half of all student loan defaults for which taxpayers are responsible. According to information available from the U.S. Department of Education, Daymar Learning, Inc., with the exception of one other school, currently has the highest default rate of any Kentucky-based school.

Persons who have information about Daymar College are encouraged to contact the Office of the Attorney General at 1-888-432-9257 or email studentcomplaints@ag.ky.gov.

More information — <http://goo.gl/ZIbS7>

Attorney General Conway Visits Bird's Point Levee

Attorney General Conway visited with officials in Fulton County at the site of the Bird's Point Levee. It was Attorney General Conway's intervention in a federal lawsuit last spring that allowed the Army Corps of Engineers to detonate the levee to protect parts of Western Kentucky from historic flooding.

"This was a matter of life and death for some Kentuckians who live along the river," General Conway said.

A federal judge in Missouri granted the Attorney General's request to intervene in the lawsuit on April 29, 2011. General Conway praised Fulton County Attorney Rick Major and other local officials for their assistance in this case.



*Kentucky Attorney
General
Jack Conway*



Attorney General's Efforts to Protect Kentucky Rate Payers Reflected in Duke-Progress Settlement

The Kentucky Public Service Commission (PSC) has granted final approval for the merger of Duke Energy and Progress Energy. The PSC issued its order approving the settlement reached between the Attorney General's Office, Duke and Progress on August 2, 2011. In its order, the PSC approved the settlement reached between the Office of the Attorney General and the two companies that reflects the Attorney General's efforts to protect Kentucky rate payers and lends a helping hand to low-income families.

"This settlement reflects our hard-fought efforts to protect Kentucky ratepayers," General Conway said. "The concessions and commitments we obtained for ratepayers include: a two-year freeze on any base rate increases for gas and electric service, a more than \$500,000 company contribution to weatherize low-income homes and a \$250,000 economic development contribution from Duke to benefit Northern Kentucky.

Additional conditions imposed by the PSC include:

- ▶ Duke Kentucky must continue to offer a full range of cost-effective energy conservation and efficiency programs.
- ▶ The board of directors of the combined company must include at least one non-employee member who resides in the company's service territory in Kentucky, Indiana or Ohio.
- ▶ No merger costs may be passed on to Duke Kentucky ratepayers.

Since 2008, General Conway and his Office of Rate Intervention have saved Kentucky ratepayers more than \$243 million in proposed rate increases.



Attorney General Conway Announces \$26.4 Million Settlement with Hospital and Physician Partners of Passport



Under a civil settlement reached with the Office of the Attorney General, the physician and hospital partners of Passport will repay \$26.4 million for improper and illegal cash transfers.

"In these difficult economic times, when the Commonwealth is forced to cut services and count every penny, the Passport board of directors acted recklessly and irresponsibly," said General Conway. "Kentucky taxpayers are now getting a return of their money - money budgeted by the state to provide healthcare for fellow Kentuckians most in need."

By the terms of this settlement, four investor-member managers of Passport will each repay multi-million dollar settlement amounts back to Passport as restitution for improper and illegal cash transfers received by each of these entities from Passport in 2008, 2009 and 2010. The money will be used by Passport to pay for Medicaid patient care. Passport is the vendor that operates the managed-care contract to provide healthcare services for Medicaid patients in the Greater Louisville area.

More information — <http://goo.gl/S41VJ>

Attorney General Files Suit Against First DataBank, McKesson Corporation

Attorney General Conway and his Office of Medicaid Fraud and Abuse Control have filed suit against First DataBank, Inc. (First DataBank) and McKesson Corporation (McKesson) alleging that the companies conspired to inflate the published average wholesale prices (AWPs) for more than 1,800 brand-name prescription drug products. The suit filed on July 15 in Franklin Circuit Court alleges that the companies' conduct caused the Kentucky Medicaid program to overpay for the drugs by tens of millions of dollars.

"This office has repeatedly sent the message to prescription drug companies that we will not tolerate fraud and abuse in the Medicaid program," General Conway said. "This complaint, which alleges fraudulent inflation of average wholesale prices and resulting injury to our Medicaid program, is another signal of my continued commitment to enforcing the laws that protect Kentuckians."

Federal and state laws and regulations require the Kentucky Medicaid program to reimburse providers for prescription drugs based on the estimated acquisition cost for each drug. As required by state law and regulation, the Kentucky Medicaid program determines the estimated acquisition cost based on the published AWP.

Since Attorney General Conway took office in January 2008, his Office of Medicaid Fraud and Abuse Control has recovered or been awarded nearly \$210 million for the state and federal Medicaid programs. These cases range from lawsuits and settlements against pharmaceutical companies to cases against individual providers who have overbilled the Medicaid program.

U.S. Attorney's Office Files Suit Against Erlanger Nursing Home Following Attorney General's Investigation

The U.S. Attorney's office has filed a civil complaint against an Erlanger nursing home following an investigation by the Attorney General's Office of Medicaid Fraud and Abuse Control. The U.S. Attorney's office alleges in its lawsuit that Villaspring Healthcare and Rehabilitation, its parent company Carespring Health Care Management, and its owner billed Medicaid and Medicare for services purportedly provided to its residents, despite knowing that the services were so inadequate that they were essentially worthless.



The complaint alleges that from 2004 to 2008, numerous patients suffered serious injuries resulting from the worthless care. Five of those patients died as a result of their injuries. The alleged inadequate care included failure to follow physicians' orders, failure to treat wounds and pressure sores, failure to update resident care plans, and failure to monitor the blood sugar levels of diabetic residents.

This is the first suit filed in Kentucky in which the government alleges that a nursing home defrauded Medicare and Medicaid by submitting bills for reimbursement for providing systemically poor resident care. The complaint accuses the defendants of violating the federal False Claims Act, committing common law fraud and unjust enrichment.

If found liable, the defendants would face financial penalties between \$5,500 and \$11,000 per false claim. The defendants would also have to repay Medicare and Medicaid three times the amount of the government's loss for the alleged fraud.

More information: <http://goo.gl/6sTmL>

A Second Former Administrator of Golden Years Rest Home Faces Indictment

A Letcher County grand jury returned an indictment on July 21 against a second former administrator of Golden Years Rest Home in Jenkins following an investigation by the Attorney General's office. Twenty-five-year-old Jonah Tackett faces indictment on two counts of bribing a witness, two counts of tampering with a witness and three counts of theft by failure to make required disposition of property.

Jonah Tackett is the grandson of James "Chum" Tackett, the former Golden Years administrator indicted last year on more than 150 counts of theft and exploitation of a vulnerable adult in connection with his operation of Golden Years. James Tackett's indictment followed a seven-month investigation by General Conway's Department of Criminal Investigations (DCI).



James F. "Chum" Tackett

The theft charges against Jonah Tackett relate to his former role as administrator of the Golden Years Rest Home. All of the charges are Class D felonies and carry penalties of between one and five years in prison each, as well as an additional penalty upon conviction of a fine up to \$10,000.

In an effort to ensure the long term viability of Golden Years and the safety of its residents, the Office of the Attorney General requested and was granted the appointment of a receiver at the rest home.

An indictment is an accusation only. All defendants are presumed innocent unless and until proven guilty.

Attorney General's Office Launches eWarrants in the 1st and 13th Judicial Circuits



Attorney General Conway announced the successful launch of an electronic warrant management system (eWarrants) in Kentucky's 1st (Ballard, Carlisle, Fulton and Hickman counties) and 13th (Garrard and Jessamine counties) judicial circuits in July.

The Attorney General's Office funded implementation of eWarrants in the 1st and 13th under a \$3.9 million American Recovery and Reinvestment Act (ARRA) grant awarded to the Office of the Attorney General in 2009.

This brings to 88 the number of Kentucky counties utilizing eWarrants. Seventy six of the counties received eWarrants under the Attorney General's ARRA grant.

OAG Staff Launch Charitable Campaign

Attorney General Conway and his staff are once again raising money to benefit families in need across the Commonwealth. At a kick-off luncheon on July 27, General Conway thanked his staff for their hard work and dedication and talked about how their contributions to KECC have made a difference in the lives of others.

Last year, the Attorney General's office raised more than \$14,700 for the KECC campaign. KECC donations benefit the Christian Appalachian Project, Community Health Charities, Easter Seals of Kentucky, Prevent Child Abuse Kentucky, United Way of Kentucky and the WHAS Crusade for Children.

More information — <http://www.kecc.org/>



Shelby County Man Sentenced to 121 Months for Possession of Child Pornography

A Shelby County man has been sentenced to 10 years in federal prison following his guilty plea in a child pornography case investigated by the Attorney General's Cybercrimes Unit. Ronald Craig Hornback, 51, was sentenced on July 26 in U.S. District Court to 121 months in federal prison following his guilty plea to one count of receipt of child pornography. Hornback will also be required to register as a sex offender.

"I would like to thank the U.S. Attorney's Office for their successful handling of this case," General Conway said. "I also appreciate the hard work and dedication of the investigators in my Cybercrimes Unit who work every day to make the Internet a safer place for Kentucky kids."

Prosecution of this case was handled by Erin Roth in the United States Attorney's office for the Eastern District of Kentucky.



Hornback's arrest on February 26, 2010, followed a nearly five-month investigation by General Conway's Cybercrimes investigators.

Repeat Child Sex Offender Sentenced to Nearly 20 Years In Prison Following Attorney General's Investigation

Repeat sex offender Sherman Gayle Pike of Lebanon, Ky. is facing nearly 20 years in prison for violating federal child pornography laws. The sentencing on July 7, 2011, followed an investigation by Attorney General Conway's Cybercrimes Unit.



Cybercrimes investigators arrested Pike on Feb. 1, 2010, after conducting a peer-to-peer undercover investigation that began in October of 2009. A forensic examination of two computers seized from Pike's Marion County home revealed numerous images and videos depicting child pornography.

Since its creation in June of 2008, General Conway's Cybercrimes Unit has launched more than 230 child pornography investigations and seized nearly 300,000 child pornographic images and videos from the Internet.

Other Cybercrimes Headlines

- Marshall County Man Indicted in Child Pornography Case — <http://goo.gl/xvN9B>
- Leslie County Man Sentenced to 133 Months in Child Pornography Case — <http://goo.gl/pJuna>