



YEAR IN REVIEW

2017

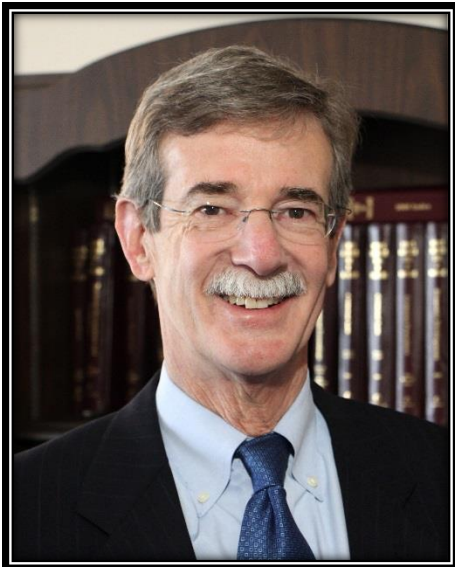
MARYLAND OFFICE OF THE ATTORNEY GENERAL YEAR IN REVIEW 2017

2017 was another productive year for the Maryland Office of the Attorney General. Our office was vigilant in protecting Marylanders from fraud and abuse, and we also fought for justice and civil rights. As always, our attorneys represented a broad range of clients with professionalism and skill, working diligently on behalf of all Marylanders.

Early in 2017, the federal government began taking steps to implement policies that threatened the health, safety and well-being of Marylanders. Working with other states, we helped to safeguard Marylanders from these actions.

I am pleased to provide this summary of initiatives, litigation and other accomplishments that represent our most notable achievements of the past calendar year.

I remain honored to serve as Maryland's Attorney General, and am working tirelessly to uphold the fine traditions of this office.



Sincerely,

A handwritten signature in blue ink that reads "Brian E. Frosh". The signature is fluid and cursive.

Brian E. Frosh
Maryland Attorney General

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MAJOR INITIATIVES

Fighting the Opioid Epidemic

Attorney General Frosh continues to fight against the opioid epidemic with every tool available to the office. This includes criminal prosecutions, investigation of opioid manufacturers, and working with client agencies to tear down barriers to effective treatment.

Criminal Prosecutions

Since the creation of the Organized Crime Unit in 2015, OCU has indicted more than 100 individuals involving the distribution or conspiracy to distribute fentanyl, heroin and other opioids.

OCU has also pursued charges against pill mill operators. In August, our office indicted Kofi Shaw-Taylor and nine co-conspirators, and Hasan H. Babaturk for the alleged unlawful distribution of controlled dangerous substances, and operating as “pill mills.” Defendant Babaturk currently faces 21 counts of drug distribution and improper dispensing charges. Defendant Shaw-Taylor faces 289 counts of conspiracy to commit drug distribution, Medicaid fraud and other charges.

The indictments allege that Kofi Shaw-Taylor and nine co-defendants operated two clinics that functioned as pill mills. A pill mill is a physician’s office, clinic, or healthcare facility that routinely engages in the practice of prescribing and dispensing controlled dangerous substances outside the scope of professional practice and without legitimate medical purpose.

During the alleged period of criminal activity, Shaw-Taylor and his co-defendants are alleged to have routinely dispensed dangerous controlled substances, including opioids, such as oxycodone, and benzodiazepines, such as alprazolam, without a medical purpose.

According to the indictments, Shaw-Taylor, as a result of prescribed medications, is responsible for the death of two beneficiaries.

Multi-State Investigation

Attorney General Frosh is working with a bipartisan coalition of attorneys general from across the country in an ongoing investigation of the marketing and sale of opioids and the role of unlawful marketing practices in contributing to the opioid epidemic.

Medicaid Fraud Control Unit

The Medicaid Fraud Control Unit (MFCU) has increased efforts to address the role of Medicaid in the opioid epidemic through its reimbursements for providers, pharmacies, and laboratories who are trafficking in opioids. MFCU has strengthened and developed new partnerships for referrals (e.g., Maryland Department of Health’s Inspector General and Office of Controlled Substances, U.S. Drug Enforcement Administration (DEA), and U.S. Department of Health and Human Services’ (HHS) Inspector General). The HHS Inspector General has also agreed to provide support for the Office of the Attorney General’s (OAG) opioid investigations. MFCU has numerous active criminal and civil investigations involving providers writing excessive prescriptions with no medical basis, pharmacies filling

fraudulent prescriptions, and laboratories conducting unnecessary tests related to substance abuse.

Health Occupations Prosecution and Litigation

The Health Occupations Prosecution and Litigation Unit (HOPL) prosecutors are investigating and prosecuting on an ongoing basis health occupations licensees—including physicians, physician assistants, dentists, pharmacists, podiatrists, and nurses—who prescribe or divert opioids for illegitimate reasons. These prosecutions have included pain management clinics in which prescribers' licenses have been revoked or suspended. HOPL prosecutors also work with the boards to support the rehabilitation of licensees who themselves abuse opioid medications, and they are involved in the efforts of the OAG's Task Force on Crimes of Exploitation to prosecute providers exploiting patients through inappropriate prescribing.

Agency Support

Many Assistant Attorneys General are working to address the opioid crisis through their advice and support of their clients' efforts. The assistant attorneys general at the Department of Health play a lead role in advising the Opioid Operations Command Center (OOCC), which is coordinating the opioid-related work of all executive branch agencies. They provide legal advice regarding the sharing of data related to opioid patients, overdoses, and other aspects of the epidemic. They also advise Maryland's Prescription Drug Monitoring Program, as well as the Board of Pharmacy, the Office of Controlled Substance Administration, the Behavioral Health Administration, Medicaid, and a

host of other offices that work on advice relating to substance abuse. Some of the legal issues include Medicaid's coverage of opioid addiction medications and treatment services, the defense of Medicaid payment suspensions for fraud relating to opioid use and prescribing, and accreditation of treatment programs.

The OAG's advice on opioid-related issues involves all or almost all of our client agencies. For example, the Educational Affairs Division provides legal advice on widespread activity on each of the University System of Maryland's campuses, which includes: 1) information and outreach; 2) intervention and support for students' immediate, short-term needs; and 3) screenings and referrals for long-term addiction assistance. OAG attorneys also advise the Maryland State Department of Education on a variety of public awareness, education, intervention, and prevention programs. Our office also advises the Department of Human Services and local agencies on a variety of responsibilities related to opioids' effects on the populations they serve.

OAG Professional Development

In support of all of these efforts, we have created an Opioid Work Group to provide training for our lawyers on opioid-related issues and to provide a forum for our lawyers to share information about the issues they are confronting. Many of our attorneys also have participated in multi-day opioid training seminars sponsored by the National Association of Attorneys General.

Legislative Efforts

Attorney General Frosh joined three other attorneys general to lead a bipartisan national effort of 44 attorneys general to repeal the “Ensuring Patient Access and Effective Law Enforcement,” a law that makes it harder for the DEA to stop suspicious orders and prevent the unlawful distribution and diversion of opioids. Specifically, the law stripped DEA of the ability to issue an immediate suspension order against a drug manufacturer or distributor whose unlawful conduct poses an imminent danger to public health or safety.

The OAG will continue to urge Congress to act to remove any impediments to DEA’s work.

Fighting for Victims of Sexual Assault

In January Attorney General Frosh released the “Statewide Accounting of Untested Sexual Assault Evidence Kits” report. That report detailed the results of an audit of the untested kits of over 100 law enforcement agencies in Maryland. As a result of that audit and after a review of national best practices, the office recommended presumptive testing of all sexual assault kits, victim notification of test results, and retention of kits until the statute of limitations has run. The General Assembly enacted legislation to carry out the recommendations of the report and to formalize the Attorney General’s role as the chair of the Sexual Assault Evidence Kit Policy and Funding Committee. That committee will continue to make legislative recommendations, review the work of law enforcement agencies throughout Maryland,

and recommend best practices for testing sexual assault evidence kits.

LEGISLATIVE VICTORIES

Pretrial Justice Reform

Attorney General Frosh has long been concerned that many people charged with minor offenses in Maryland are held in jail before trial simply because they are too poor to afford bail. In 2016 our office advised that this practice was likely unconstitutional. In response, the Court of Appeals, in a major decision, unanimously adopted new rules designed to ensure that people will not be imprisoned for being poor. The new rule, one that will likely reduce the use of cash bail, met fierce opposition from the bail bond industry. In the ensuing legislative battle in 2017, the OAG worked to protect the Judiciary’s rule and prevailed. This will mean a better, fairer justice system throughout Maryland.

Generic Drug Price Gouging



For decades generic drugs have been one of the few bargains in healthcare. In recent years, however, the price of generic drugs has skyrocketed.

To combat this, our office sponsored legislation that allows the Attorney General to pursue companies that hike the prices of generic and off-patent drugs to levels that are unconscionable and unwarranted. Our office is especially enthusiastic that this is the first legislation of its kind in the nation, and we hope it will ensure that extraordinary price increases do not deprive Marylanders of access to essential generic medicines.

POLICY AND ENFORCEMENT PRIORITIES

Public Safety

There are few priorities greater than the safety of Maryland residents. The OAG has continued to focus its resources strategically to build safer streets and communities.



Prosecuting Gang Activity in Maryland's Correctional Facilities



In November we announced the indictments of 26 defendants after a nearly year-long, multi-agency investigation of gang activity in Maryland correctional facilities. Charges in the indictments include attempted first-degree murder, gang participation, drug distribution, smuggling of contraband into prison facilities, and misconduct in office. The investigation was led by the OAG, DEA, and the Maryland Department of Public Safety and Correctional Services (DPSCS).

The initial target of the investigation was Correctional Officer Sergeant Antoine Fordham. The indictment alleges that Fordham is a high-ranking member of the 8-Trey Crips street gang. The 8-Trey Crips is a Crips set that operates inside Baltimore City and in several Maryland counties, both inside Maryland correctional facilities and on the street. In his position, Fordham oversaw much of the 8-Trey Crips' drug dealing and other illicit activities near the intersections of Frankford Avenue and Sinclair Lane in Baltimore City. Fordham and other members of the gang authorized and/or committed acts of violence including

shootings and assaults to protect the gang's turf and to maintain discipline within the gang. The investigation grew to include additional gang members and other co-conspirators who, as alleged in the indictment, together were running a large-scale, contraband-delivery operation in several Maryland correctional facilities, including Jessup Correctional Institution and Maryland Correctional Institution – Jessup. Incarcerated members of the gang used contraband cellular phones and Maryland's prison phone system to arrange times and locations for the outside facilitators who acquired the contraband items to meet and exchange payment for the contraband with other co-conspirators who would actually bring these items into the correctional facilities.

Two of the indicted co-conspirators who brought the items into the facility are Fordham and Phillippe Jordan, another correctional officer. Ten of the other indicted co-conspirators are outside facilitators and include the mothers of three of the inmates. While some payments for the contraband were made in cash, the majority of payments were made using PayPal.

Penalties faced by members of the conspiracy range from three years to life imprisonment.

Tax Fraud Schemes

The OAG indicted several tax preparers who filed false returns on behalf of vulnerable taxpayers, including those who were homeless, in drug rehabilitation programs, or disabled. The tax preparers on average took fees that equaled approximately 85% of the amount being refunded to the taxpayers. Those responsible ultimately pled guilty to taking part in the fraudulent tax scheme.

Gun Safety

The OAG won an important victory in the fight for reasonable gun safety regulation. The United States Court of Appeals for the Fourth Circuit upheld the constitutionality of Maryland's ban on assault weapons and large capacity magazines. The ruling keeps in place an important piece of the General Assembly's comprehensive 2013 legislation—the Maryland Firearm Safety Act—designed to protect Marylanders from gun violence, and confirms the principle that the Constitution does not prohibit states from protecting their citizens and communities. The OAG also persuaded the United States Supreme Court not to review the case.

The OAG also prosecuted cases against those unlawfully possessing firearms, including the criminal indictment of six individuals for conspiring to commit burglaries in order to steal firearms, rifles, and shotguns. The indictments and arrests came at the end of a year-long investigation that was the product of collaboration between the Bureau of Alcohol, Tobacco, Firearms and Explosives – Baltimore Field Division, the Baltimore Police Department, and the OAG's Organized Crime Unit. The indictments allege that over the course of two days in early August 2015, some of the defendants broke into a storage unit in the Park Heights area of Baltimore City and stole approximately 60 firearms. These included several shotguns and semi-automatic assault rifles. The defendants subsequently sold, traded, and rented the stolen firearms to other individuals for use in the commission of drug trafficking offenses and violent crimes. In addition, the defendants

kept many of the firearms, using them to commit several carjackings and armed robberies throughout Baltimore City.

Fighting Human Trafficking

Attorney General Frosh partnered with Prince George's County State's Attorney Angela Alsbrooks to convict members of a multi-jurisdictional, Maryland-based human trafficking enterprise.

Over a three-year period between 2013 and 2015, the co-defendants worked together to organize, promote, and participate in a multi-jurisdictional human trafficking criminal enterprise. They promoted their enterprise under the guise of a modeling and escort agency and recruited females throughout Maryland and surrounding states using the website backpage.com. The co-defendants posted more than 100 advertisements on backpage.com and featured sexually explicit images and language to solicit customers for sexual services arranged by the co-defendants and performed by the victims. Proceeds from the sexual services were taken by the defendants. The victims included a juvenile who was lured from North Carolina. Once trafficked into Maryland, the victims were manipulated and threatened into prostitution. The co-defendants operated their criminal enterprise by renting dozens of hotel rooms throughout Maryland to place and harbor victims for the purposes of sexual encounters. The victims were trafficked to and from the hotels using coercion, deception, intimidation, and physical violence.

Standing Up for Consumers

Protecting Marylanders from fraud and deceptive business practices is an essential function of the OAG. Every day Marylanders face challenges and have questions about transactions that are part of daily life. They may sign up for phone service that doesn't work the way it was promised or have trouble getting a warranty repair or a medical bill paid by their insurance companies.

The OAG is prepared to help. In FY 2017 the Consumer Protection Division (CPD), which includes the Health Education and Advocacy Unit, assisted nearly 11,000 consumers who filed complaints, reclaiming nearly \$10 million for them.



In addition to individual claims, the office undertakes major investigations and participates in litigation with successful outcomes for Marylanders. Here are some of the major cases from 2017.

Moody's

Maryland joined 21 other states, the District of Columbia, and the U.S. Department of Justice in an investigation of Moody's Corporation and Moody's Investor's Service, resulting in an

\$863,791,823 million settlement agreement. Maryland received \$12 million of that settlement. The investigation revealed that Moody's had not been independent and objective when rating structured finance securities. These securities, particularly those backed by subprime mortgages, were at the center of the financial crisis.

Keeping the Heat On

In September, after residents of the Lynnhill Condominium community were left without power, the CPD secured a \$100,000 settlement with Potomac Electric Power Company (Pepco) and Washington Gas Light Company (WGL). The settlement requires Pepco and WGL to pay \$100,000 to Lynnhill occupants affected by the service terminations and to assist Prince George's County residents who need help paying their winter heating bills.

The CPD alleged that Pepco and WGL gave occupants only one day's notice before cutting the power and gas to all 219 units, rather than the legally-required 14 days' individualized notice. Prince George's County temporarily declared the property uninhabitable following the utility termination. Occupants were forced out of their homes with no time to adequately plan where to sleep that night or how to move their belongings. Some occupants went to hotels or stayed with friends or family. Others were forced into shelters. Some stayed at Lynnhill in the dark and without heat.

Within two days of the power being terminated, the CPD secured a temporary restraining order in Prince George's County Circuit Court, giving occupants access to the property to retrieve their personal belongings. The next day, at the request of the CPD, the Maryland Public Service Commission ordered Pepco and

WGL to restore electric and gas services to the building. The utilities began the reconnection process the next day and service has since been uninterrupted. Following a hearing, the Public Service Commission held that the "Utilities' failure to provide such proper notice compromised many of Lynnhill's occupants, some of whom were elderly or had special medical needs, to pursue alternative housing and other options in a timely fashion, thus increasing risks that could have been mitigated by more comprehensively notifying Lynnhill and its occupants of the threat of termination of utility services."

The Attorney General's actions also uncovered statewide failures by Pepco and WGL in providing proper notice of termination to consumers. As a result, the utility companies have already refunded approximately \$1.4 million to consumers who received a defective notice and paid fees to have their utilities reconnected.

The Money Guys Lose Appeal



In September, Judge Althea Handy denied the relief sought in an appeal by Phillip Rousseaux, owner of Everest Wealth Management (EWM) and Everest Invest Advisors (EIA), and affirmed the Securities Commissioner's sanc-

tions against Rousseaux. The Securities Commissioner found that Rousseaux and his companies violated the antifraud provisions of Maryland securities law by, among other things, using false and misleading performance figures, misrepresenting to clients the nature of the advisory services he offered and the fee for those services, and by making false and misleading filings with the Securities Division.

Rousseaux and his companies were known for frequent “The Money Guys” infomercials that were a part of Rousseaux’s marketing campaign to attract customers with promises of guaranteed returns and limited risk. In her decision, Judge Handy stated: “In this case, the Commissioner’s sanction was ‘lawful and authorized,’ based [on] findings of fact and law in a ‘reasonable and rational’ Final Order, and was not so ‘extreme and egregious to be considered arbitrary and capricious.’”

Rousseaux had sought an appeal in the Circuit Court of the Maryland Securities Commissioner’s Final Order in March 2017. The Final Order revoked Rousseaux’s investment adviser registration for one year, barred Rousseaux from acting as an investment adviser representative, and imposed fines totaling \$255,000.

Saving Wedding Videos

The CPD issued a Final Order finding that Blue Sky Films (also known as Blue Sky Media Corporation and Martin Andrews, Inc.) and Martin Gruber repeatedly violated the Consumer Protection Act and requiring them to return \$380,834.42 to consumers and to pay penalties and costs of \$136,564. Blue Sky Films was found to have violated Maryland law in 112 instances for advertising that they would record and produce edited videos of wedding ceremonies, receptions, and other major

events, but failing to deliver the promised videos or to provide refunds.

For many consumers who did have their weddings recorded by Blue Sky Films, the company refused to provide even the raw, unedited footage of the wedding, which would allow the consumers to obtain editing services elsewhere. However, since the CPD’s filing of this case, it recovered unedited footage of approximately 100 wedding events filmed by Blue Sky Films and has provided that footage to consumers.

Protecting Citizens from Adulterated Drugs

The office joined with 42 other state attorneys general and reached a \$33 million settlement with Johnson & Johnson Consumer Inc., Johnson & Johnson, and McNeil Consumer Healthcare Division for alleged unfair and deceptive marketing of over-the-counter drugs. According to the complaint, between 2009 and 2011 McNeil put certain batches of over-the-counter drugs on the market that failed to comply with federal standards and, therefore, were deemed adulterated as a matter of federal law. McNeil’s alleged quality control lapses resulted in recalls of more than 2,000 product lots of over-the-counter drugs, several of which are indicated for infant or pediatric use. According to admissions that McNeil made in a federal court guilty plea, McNeil failed to initiate corrective action when it learned of foreign material, particulate matter, and/or contamination in multiple batches of its over-the-counter drugs.

Fighting Fraud by For-Profit Colleges

Attorney General Frosh, joined by at least 44 other state attorneys general, notified Maryland consumers who attended schools operated by

Corinthian Colleges, Inc. that they are eligible for cancellation of their federal student loans used to attend those schools.

After intense scrutiny by various government entities, for-profit Corinthian Colleges abruptly ceased operations in 2015. The U.S. Department of Education found that while it was operating, Corinthian Colleges made widespread misrepresentations between 2010 and 2014 about post-graduation employment rates at certain campus locations across the nation.

The settlement with Aequitas, a now-defunct private invest firm, is part of a broader agreement worth \$192 million for former Corinthian students across the country. The coalition of state attorneys general alleged that Aequitas entered into a complex financial relationship with Corinthian to fund the “Genesis Private Student Loan Program,” which saddled students with sham debt in order to provide the false appearance that Corinthian was financially sound and would qualify for the maximum allowable amount of federal student loan money.

Protecting the Borrower Defense Rule

Attorney General Frosh is challenging the Department of Education’s delayed implementation of the Borrower Defense Rule. The office is leading a coalition of 18 state attorneys general who joined him in the lawsuit.

The Borrower Defense Rule was designed to hold abusive higher education institutions accountable for cheating students and taxpayers out of billions of dollars in federal loans. Under the Rule, a borrower can obtain loan forgiveness when a predatory school engages in deceptive conduct. While providing students with relief from loans obtained as a result of

deceptive conduct, the Rule protected taxpayers by strengthening the requirements for schools to prove financial responsibility, including, under certain circumstances, by posting letters of credit. The Rule also limits the ability of schools to require students to sign mandatory arbitration agreements and class action waivers, commonly used by for-profit schools, to avoid negative publicity and to thwart legal actions by students who have been harmed by schools’ abusive conduct.

Maryland has thousands of students who have been victimized by Corinthian and other for-profit schools.

Deutsche Bank

The Securities Division reached a \$95 million settlement with Deutsche Bank, resolving financial crisis–era civil claims that Deutsche Bank misled investors in its securitization and sale of residential mortgage-backed securities (RMBS) and related collateralized debt obligations (CDOs). As part of the settlement, Deutsche Bank will be required to provide \$80 million in relief to Maryland consumers. The \$95 million settlement is the largest reached by a state for Deutsche Bank’s financial crisis–era RMBS-related conduct.

Pursuing Deceptive Charities

Attorney General Frosh reached a settlement with VietNow National Headquarters, Inc., resulting in the organization’s dissolution. Since March 2015 VietNow, which also used the name VeteransNow, had been raising money using deceptive telemarketing solicitation scripts. The scripts, which were used by professional fundraiser Corporations of Character, told potential donors that VietNow gave a min-

imum of 12 percent after expenses back to veterans in the donor’s state. Other scripts stated that donations helped local veterans in the donor’s state. In response to the investigation by the attorneys general, VietNow admitted that it had not funded any programs assisting veterans. In addition, other VietNow scripts claimed that VietNow provided “medical facilities and treatment” to veterans; but again, VietNow’s response identified no such programs.

In August 2017 Attorney General Frosh issued a Cease and Desist Order against We Can Cer-Vive! The investigation found multiple violations of the Maryland Solicitations Act by the organization and its owner. Violations included using false and misleading advertising materials when soliciting and failing to register with the Secretary of State before soliciting. We Can Cer-Vive! solicited charitable donations and falsely claimed to be a 501(c)(3) organization using its website, various social media outlets, and at fundraising events prior to the cease and desist order.

Fighting for Affordable Healthcare

Johnson & Johnson Price Fixing

In March the OAG announced the settlement of a price-fixing lawsuit against Johnson & Johnson Vision Care, Inc. (Johnson & Johnson), alleging that Johnson & Johnson agreed with retailers in 2014 to fix the price of Johnson & Johnson brand contact lenses, like Acuvue. Under that pricing policy, no retailer was permitted to sell Johnson & Johnson brand contact lenses below an allegedly agreed upon minimum price.



An agreement between a manufacturer and retailer to set a minimum retail price is a violation of Maryland antitrust law. Johnson & Johnson, the largest manufacturer of contact lenses in the United States, sells more than 40% of all contact lenses sold in Maryland.

According to the lawsuit, Johnson & Johnson negotiated its price policy because certain eye care professionals who prescribe and sell contact lenses to patients complained that discounters like Costco, Sam’s Club, and BJ’s Wholesale Club were selling contact lenses at low prices that they could not match. As the result of the price policy, discount stores raised their prices to conform to Johnson & Johnson’s mandatory minimum. This not only caused consumers to pay more, but also deprived consumers of the benefits of price competition among merchants.

The lawsuit against Johnson & Johnson is the first case that the OAG has brought under the amended Antitrust Act to challenge an alleged minimum retail price agreement.

Johnson & Johnson has signed an Assurance of Discontinuance, in which the company denies any and all wrongdoing, but assures that it has permanently discontinued the agreements alleged in the lawsuit. In addition, Johnson &

Johnson has agreed to pay a civil penalty of \$50,000.00 to Maryland.

Mylan EpiPen Medicaid Fraud

In December the office announced that Maryland will receive \$9,979,638.42 to settle allegations against Mylan Inc. and its wholly-owned subsidiary, Mylan Specialty L.P., for massive price increases for its EpiPen in the private market and underpaying its EpiPen rebates to Maryland's Medicaid program. The participating states will share \$213,936,000 of the total settlement.

As alleged in the settlement, from July 29, 2010, to March 31, 2017, Mylan submitted, or caused to be submitted, false statements to U.S. Centers for Medicare and Medicaid Services (CMS) and/or the states relating to EpiPen for Medicaid rebate purposes, and underpaid its EpiPen rebates to state Medicaid programs.



Mylan Specialty owns the exclusive rights to sell EpiPen in the United States and possesses legal title to the National Drug Codes (NDC) for EpiPen. The investigation stemmed from two whistleblower lawsuits.

Defending the Affordable Care Act

Acting to protect healthcare coverage for millions of Americans nationwide and Marylanders here at home, OAG has filed or intervened in several cases relating to the Affordable Care Act (ACA).

OAG intervened in a case in which members of the U.S. House of Representatives challenged the authorization of federal funding for cost-sharing reduction payments. Cost-sharing reductions, an important part of the ACA's financial assistance provisions, reduce out-of-pocket costs by lowering deductibles, co-payments, and similar expenses for eligible consumers purchasing plans on state health exchanges. Several states intervened in the case because they could not rely on the Trump administration to defend the lawsuit.

OAG filed a second suit opposing the Trump administration's abrupt decision to stop making these cost-sharing reduction payments, a decision that prompted the Maryland Insurance Commissioner to permit carriers to submit a second rate filing seeking increases in proposed 2018 rates to cover the loss of the payments.

These cases are important to Marylanders because 83,000 individuals were projected to receive over \$97 million in these payments in 2017. Loss of federal funding for cost-sharing reduction payments would result in higher premiums to cover the loss, which would harm the state, Maryland consumers, and the entire healthcare marketplace. More Marylanders would lose or forego coverage, and uncompensated care would increase, driving up hospital rates and Medicaid expenditures and jeopardizing Maryland's federal Medicare waiver.

These payments are critical to protecting millions of working families from unaffordable healthcare costs.

Ensuring Access to Contraception

The OAG intervened in a lawsuit challenging the Trump administration's decision to allow employers to deny coverage for contraception by citing religious or moral objections. The rollback of the ACA's guarantee of no-cost contraceptive coverage will put access of thousands of Maryland women and their families to reproductive health services and counseling in jeopardy. In addition to violating the Administrative Procedure Act by issuing two illegal interim final rules, the Trump administration's action violates the Establishment Clause and women's constitutional rights to equal protection and freedom from discrimination, and it imposes additional fiscal burdens on the state as women seek birth control through state-funded programs. Sixty-two million women have benefited from this coverage nationwide since the inception of the ACA, and the administration's interim final rules have put those benefits in jeopardy.

Maryland law does extend contraceptive coverage to state-regulated health plans, but more than 50 percent of Marylanders are in employer self-insured health plans. This case is important to Marylanders because all women and their families deserve contraceptive coverage, and family planning should be in hands of workers, not employers.

Mallinckrodt

The OAG joined four other states and the Federal Trade Commission in a \$100 million settlement against Mallinckrodt ARD Inc. (Mallinckrodt) for monopolizing the market

for a lifesaving medication. Acthar is used to treat rare but life-threatening diseases, including infantile spasms, a rare but devastating neurological disease; nephrotic syndrome, a kidney disorder; and multiple sclerosis. The OAG alleged that the company blocked competitors from entering the market so it could continue to charge consumers unconscionably high prices. The cost of the drug rose from \$40 a vial in 2001 to \$34,000 per vial, an 85,000 percent increase. The settlement required Mallinckrodt to transfer the rights to one of its drugs to another pharmaceutical company so that there will be competition in the marketplace. Monetary proceeds from the settlement were used to fund critical research at Johns Hopkins and the University of Maryland.

Price-Fixing of Generic Drugs

The OAG has joined with 44 other state attorneys general to sue 20 defendants who are alleged to have participated in price-fixing schemes of generic drugs. The states allege a number of illegal agreements among the defendants to fix prices and allocate customers for a number of generic drugs. The states further allege that these conspiracies were part of a much broader, overarching industry code of conduct that enabled the defendant manufacturers to divvy up the market for specific generic drugs in accordance with an established, agreed-upon understanding for assigning each competitor a share of the market. This illegal activity drives up the cost of prescription drugs for millions of Americans.

Standing Up for Civil Rights

Fighting President Trump's Muslim Travel Bans

The OAG joined the State of Washington's suit challenging the constitutionality of President Trump's Muslim travel bans.

The President's Executive Orders suspended entry into the United States of all persons from certain designated countries that have majority Muslim populations. People who arrived in the country lawfully, expecting to be welcomed and treated with dignity, were instead detained at airports, handcuffed, denied access to counsel, and in some cases forced to leave the United States at their own expense and at their own peril.



The issues in the travel ban cases are important to Marylanders because the Executive Orders impair the ability of Maryland students who are lawful permanent residents or who are present on student visas to continue to attend Maryland's colleges and universities. That impairment will affect the ability of Maryland colleges and universities to attract and retain foreign students in the future, and with respect to public institutions, may result in a significant loss

of tuition revenue to Maryland. The Executive Orders also hinder the research efforts of Maryland faculty members, research fellows, and graduate students whose inability to travel overseas will jeopardize their grant funding and the important academic, scientific, and medical research it supports. The Executive Orders' adverse effect on researchers will also have consequences for Maryland's growing technology industry, which employs a significant number of professionals originating from the countries targeted in the orders.

Most fundamentally, Maryland has an interest in ensuring that the federal government does not discriminate based on race, ethnicity, or religion.

Voting Rights

The OAG stood up against attempts by the so-called "Presidential Advisory Commission on Election Integrity" to intimidate voters and obtain their personal information. The office advised that the Commission's request for personal information on Maryland voters was prohibited by law. Attorney General Frosh assured Marylanders that he will continue to take steps to protect the private personal information of Maryland voters and the integrity of Maryland's voting process.

Immigration Guidance Memorandum

The OAG issued guidance to help Maryland law enforcement agencies comply with federal immigration law in a manner that also respects the constitutional rights of individuals, protects local agencies and officials from potential legal liability, and allows them to remain faithful to their mission of promoting public safety.

Implicit Bias Training

Identifying Unconscious Bias training was provided to OAG managers, aimed at helping them identify their own unconscious biases, learn how the biases affect their decision-making, and take steps to reduce the biases. The goal was to make the office's managers better at hiring, stronger at team building, and more effective in developing the future leaders of the office.

Environmental Enforcement

Fighting Off-Shore Drilling

In July 2017 Attorney General Frosh joined attorneys general from eight other states in submitting comments opposing the National Marine Fisheries Service's (NMFS) proposal to conduct deep penetration surveys in the Atlantic Ocean. The attorneys general noted in their letter that the surveys pose a significant risk to the coastline, the environment, and to marine life. Additionally, the proposed seismic surveys are the first step in the process to allow for off-shore drilling in the Atlantic from Delaware to Florida—an action that could result in severe and irreparable harm to the coastline and marine life.

Methyl Tertiary Butyl Ether Lawsuit

Attorney General Frosh filed a lawsuit against Exxon Mobil and more than 50 other petroleum related companies to recover damages and address the widespread contamination of Maryland's waters with methyl tertiary butyl ether (MTBE), a chemical compound that was

used as a fuel additive in gasoline starting in the late 1970s. MTBE was discharged into the environment from leaking underground storage tanks at service stations and other locations, causing serious groundwater contamination in Maryland. Although gasoline refiners have since phased MTBE out of Maryland's gasoline supplies and replaced it with ethanol, contaminated groundwater remains.

The lawsuit seeks to recover the costs of inspecting and cleaning up MTBE contamination, damages for injury to Maryland's water, punitive damages, interest, and attorneys' fees and costs. Maryland also seeks an injunction requiring defendants to identify the full scope of contamination in the state, test for MTBE in wells, and remove MTBE from the state's water.

Prosecutions by Environmental Crimes Unit

OAG's Environmental Crimes Unit filed charges against landlord and lead paint inspector James R. Lerch for allegedly issuing unlawful lead paint compliance certificates. Lerch is an accredited lead paint inspector and is alleged to have issued unlawful lead paint compliance certificates for a rental property he owns in Towson, Maryland, and subsequently used those unlawful certificates in filings with the District Court of Baltimore County and the Baltimore County Rental Housing Registration Division. Lerch was charged with one count of deceptive trade practices, one count of reckless endangerment, three counts of issuing a false lead paint certificate, three counts of submitting a false lead paint certificate, and three counts each of the following regulation violations: performing a lead paint inspection for related party, performing a lead paint inspection

when chipping paint is present, failing to properly conduct lead dust samples, failure to notify the Department of the Environment in advance of conducting a lead paint inspection, and failing to provide the Department of the Environment with lead dust test results.

Enforcing the Clean Air Act's Smog Protections

The OAG filed suit to challenge Environmental Protection Agency's (EPA) failure to designate areas of the country that are not in attainment with the agency's 2015 national ambient air quality standards (NAAQs) for ground-level ozone (commonly referred to as "smog"). This is important because the designations, which are required under the Clean Air Act, trigger an obligation on the part of states to take action to reduce smog pollution and to set deadlines for reducing pollution levels. Because smog can cause significant health problems and even death, the delay in making these designations will expose Marylanders to increased death rates and hospital visits.

Fighting Anti-Competitive Subsidies for Coal and Nuclear Power Plants

In October 2017 the U.S. Department of Energy (DOE) used a rarely invoked statutory provision to propose a rule for the Federal Energy Regulatory Commission (FERC) regarding electric grid reliability and resilience pricing. The DOE proposal is legally deficient and will violate both the Federal Power Act and the Administrative Procedure Act. In addition, its practical effect would be to subsidize the operations of inefficient coal-fired and nuclear power plants, which will impose unnecessary and unacceptable costs and risks for the citizens of Maryland and the environment.

OAG previously submitted comments on the proposed rule and moved to intervene in FERC's docket proceedings to challenge the proposed rule.

Defending the Clean Power Plan

The Clean Power Plan was adopted by the EPA in 2015 in response to a provision of the Clean Air Act requiring the EPA to take steps to reduce air pollution that harms the public's health. By regulating greenhouse gas emissions from power plants, the Clean Power Plan represents an historic step in curbing and reversing climate change. It is critical to mitigating climate change's increasing harm to states' public health, environments, and economies.

Scott Pruitt, prior to becoming the EPA administrator, sued EPA to challenge the Clean Power Plan. A number of states, including Maryland, intervened in the case to defend the Clean Power Plan and to oppose the Trump administration's efforts to delay the court proceedings. If successful, the administration's delay tactics will likely result in an indefinite stay of the litigation, which would have the effect of delaying the implementation of the Clean Power Plan. In addition, the administration has taken steps to begin repeal of the Clean Power Plan. OAG is preparing to submit comments in that rulemaking proceeding and, once the anticipated repeal rule becomes final, to challenge it in litigation.

The EPA's Clean Power Plan actions will harm Maryland citizens and the environment by eliminating one of the most critical tools currently in place to address climate change, the harmful effects of which Maryland citizens are already experiencing.

Forcing Upwind States to Implement Air Pollution Controls

Maryland and eight other states submitted a Clean Air Act Section 176A Petition to the EPA on December 9, 2013, requesting that the EPA expand the Ozone Transport Region. This action was deemed necessary to address the interstate transport of air pollution, which EPA itself has acknowledged is a significant contributor to Maryland's ozone attainment problems. The EPA failed to act on the petition for several years and then denied the petition on November 3, 2017. OAG filed a lawsuit to challenge the denial of the petition.

The EPA's denial harms Maryland's residents by continuing to allow negative health effects associated with pollution that is generated outside the state's borders. It also inequitably requires Maryland to impose more stringent regulations on its businesses in order to address transported pollution, putting Maryland at an economic disadvantage vis-a-vis other states.

Fighting to Ban Chlorpyrifos

OAG has sought to intervene in a lawsuit challenging the EPA's decision to allow continued use of chlorpyrifos on food crops. EPA's own record shows that chlorpyrifos is a toxic pesticide that has adverse neurodevelopmental effects, particularly in children. EPA scientists were unable to identify a safe level for the pesticide in food. Chlorpyrifos is widely used, including in the production of fruits and vegetables consumed by millions of Americans.

This case is important to Marylanders because chlorpyrifos threatens the health of the citizens of Maryland, particularly the health of children.

Protecting the Waters of the United States Rule

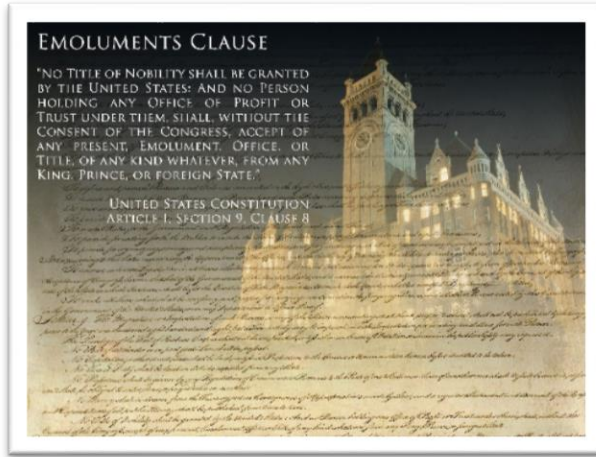
The EPA and the Army Corps of Engineers (Corps) have initiated two proposed rulemakings with respect to the Clean Water Rule. The rule was promulgated in 2015 in response to widespread and longstanding concerns about the lack of clarity and consistency in the definition of "waters of the United States" under the Clean Water Act and the scope of federal jurisdiction over the nation's wetlands and waterways.

The first proposed rulemaking called for rescission of the Clean Water Rule and reinstatement of prior regulations pending a later, substantive rulemaking regarding a new definition. OAG submitted comments with the EPA and the Corps in September 2017 raising concerns about the repeal of the rule. Rescinding the rule would make it more difficult for Maryland to implement its water quality protection programs and would put Maryland at an economic disadvantage in competition with other states. It is also procedurally defective and would violate the federal Administrative Procedure Act.

The second rulemaking would delay the effective date of the Clean Water Rule for a period of two years. As with repeal, delaying the rule would have the effect of reinstating the prior regulations and would not provide any clarity and consistency as to the extent of federal jurisdiction under the Clean Water Act. OAG submitted comments to EPA and the Corps in December 2017 reiterating its substantive and procedural concerns with either a repeal or delay of the rule.

The office then joined with other states to block EPA's decision to delay the effectiveness of the rule by two years.

Enforcing the Emoluments Clauses



The Maryland OAG, along with the District of Columbia, filed suit against the President to enforce our nation’s original anti-corruption legislation, the foreign and domestic emoluments clauses of the U.S. Constitution. As explained in the complaint, “President Trump’s myriad international and domestic business entanglements make him vulnerable to corrupt influence and deprive the American people of trust in their chief executive’s undivided loyalty.”

President Trump’s violations of the foreign and domestic emoluments clauses harm the interests of Maryland and its citizens. The purpose of these clauses is to ensure that the President is not swayed to act against the interests of the people by the corrupting influence of money or other benefits received from foreign governments, the federal government, or state governments. The citizens of Maryland are harmed when President Trump ignores the best efforts of the Framers to protect the people and makes decisions that are swayed by personal enrichment. Maryland also has an interest in protecting the welfare of its citizens who

own and are employed by businesses that compete with President Trump’s business interests. President Trump’s businesses gain an unfair advantage by receiving money and other benefits from foreign governments, the federal government, state governments, and their instrumentalities and agents, who want to gain favor from President Trump.

The case is also important to Marylanders because they, like all citizens, have the right to honest government, and to know that decisions impacting Maryland are being made on the basis of merit and not on the basis of the President’s personal financial gain. Moreover, Maryland’s tax revenues are reduced when foreign, federal, and state governments hold events at the Trump Hotel in the District of Columbia.

Protecting Deferred Action for Childhood Arrivals

The OAG filed suit to challenge the Trump administration over its decision to end Deferred Action for Childhood Arrivals (DACA). As part of their DACA applications, recipients were required to provide sensitive personal information to the federal government, and it promised that the information would remain confidential and not be used against them in later immigration enforcement proceedings. Having relied on those assurances of continuity and fair treatment, these young people now find themselves perversely in greater peril, at higher risk of deportation or other harmful enforcement actions than they would have been absent their participation and the government’s commitment to the program. President Trump’s elimination of the program violated

both the Constitution’s fundamental guarantees of equal protection and due process and constraints on arbitrary and capricious federal agency action.

These cases are important to Marylanders because DACA has opened up employment and educational opportunities for about 24,000 Marylanders who have grown up here and are either working, going to school, or serving in the military. Hundreds are attending our public colleges and universities and benefitting from Maryland’s passage of the DREAM Act, which extended in-state tuition rates to these young people seeking education and training to enable them to support themselves and contribute productively to their communities.

Preserving the Open Internet

The OAG filed a legal challenge to the Federal Communications Commission’s recent action to repeal the net neutrality rules. The net neutrality rules prohibited internet service providers (ISPs) from blocking internet content or favoring some internet content over other internet content.

If the rollback of these protections is permitted to stand, ISPs could prevent Marylanders from accessing content of their choosing, could favor some internet content over other internet content by speeding up access to some sites or slowing down access to other sites, or could impose additional fees for consumers to obtain internet content of their choosing. In addition, this repeal threatens content providers that are not affiliated with ISPs, particularly small businesses, because the content they provide may be blocked or slowed by the ISPs.

Labor Rights

Attorney General Frosh led a coalition of 17 states in filing an amicus brief in the United States Supreme Court in support of the National Labor Relations Board (NLRB) and several employees who are alleging violations of their legal rights. In these three consolidated cases—Epic Systems Corp. v. Lewis, NLRB v. Murphy Oil USA, and Ernst & Young v. Morris—the Supreme Court will decide whether employers may force their employees, as a condition of employment, to sign arbitration agreements that bar them from joining together to pursue work-related claims on any collective or class basis. The OAG argued that the workers should not be forced to sign such agreements.

Judicial Appointments



Several OAG attorneys received the high honor of appointment to Maryland’s judiciary in 2017: Matt Fader to the Maryland Court of Special Appeals, Lawrence “Larry” Kreis to the Circuit Court for Harford County, Dana Middleton to the Circuit Court for Baltimore City, and Peter Killough to the Circuit Court for Prince George’s County.

Commitment to our Community

Thurgood Marshall Program

In keeping with its commitment to provide superior legal representation, the OAG created the Thurgood Marshall Clerkship Program. Each year, the Thurgood Marshall Clerkship Program provides first and second year law students from historically under-represented populations the opportunity to serve an 8-week clerkship over the summer at the downtown Baltimore location of the Maryland OAG.



The program is a collaborative effort of the OAG, several local law firms, and area law schools designed to attract diverse law students who demonstrate exceptional leadership potential to the field of public service. The goal is to encourage these students to consider public sector service during their legal careers by providing them with an excellent summer clerkship that enhances their future employment opportunities.

Pro Bono Work

The quality and commitment of lawyers and staff in the OAG is impressive. With skills honed by years of education and practice, attorneys in the office undertake detailed research, write strong and compelling briefs and opinions, and find solutions to complex problems. But with the privilege of professionalism comes responsibility. A responsibility to give back to the community. A responsibility to make justice—and the legal system—accessible to all. That is why the OAG has a robust and growing pro bono program.

Individuals in need of legal help are matched with lawyers who can assist them with a variety of tasks. Our lawyers help children, the elderly, and many others in need. We are committed to making sure we give back to the community, both through our public service mission and in other ways.

There are a variety of ways in which OAG attorneys may perform pro bono services. The cases in which attorneys have volunteered include drafting simple wills, simple deeds, powers of attorney, advanced medical directives, and corporate charters and by-laws; staffing expungement, powers of attorney, and bankruptcy bypass clinics; and representing individuals with filing Chapter 7 bankruptcies, name changes, gender marker changes, adult guardianships, divorces not involving custody, asylum, and other cases. Our attorneys have also written or edited numerous articles for the People's Law Library.

Corporate Mentoring Program

The OAG has partnered with the Community Law in Action (CLIA) Corporate Mentoring Program to give local high school students

worksite experiences in law and public policy as well as the opportunity to mentor with positive adult role models who have a passion for working with young people. The overall mission of the OAG/CLIA Mentoring Program is to inspire youth from diverse backgrounds who are under-represented in the legal profession and youth from low-to-moderate income communities to strive for higher education and careers in the legal field.

Students receive real-life work experience in the fields of law and public policy and exposure to professional problem-solvers who work to serve their communities. Activities of the program include visits to the Maryland General Assembly, college and university tours, museum and historical sites outings, courts and judges' chamber visits, and tours of law enforcement facilities.

Several members of the OAG are serving as mentors to students participating in the program for the 2017-2018 school year.

Community Service Initiative

The Baltimore Community Service Initiative was established in the aftermath of the Freddie Gray unrest with the focus of providing community support and assistance on behalf of the OAG to the greater Baltimore community. Since its inception, the initiative has partnered with key community organizations to provide notable contributions on behalf of the OAG.

These outstanding volunteers who tirelessly donate their time and resources include attorneys and support staff in OAG offices statewide. The OAG continued its work with Moveable Feast, an organization that provides medically tailored meals free of charge to people with serious life threatening illnesses, and

with Meals on Wheels and the Maryland Food Bank, nonprofits dedicated to ending hunger throughout Maryland.

The initiative also spearheaded successful community service donation drives. The School Supplies Drive collected nine boxes of supplies for delivery to Highlandtown Elementary/Middle School #215, including 40 pieces of uniform clothing, 1,000 pens and pencils, 60 packs and pads of paper, and a large assortment of other necessary school supplies. Additionally, the office participated in a coat and glove drive for Stand Up Baltimore, helping provide warm outerwear for low-income and needy students in Baltimore. Members of the Office participated in Gilmore Elementary's Fun Day, helping operate the school's annual fair and carnival. OAG staff volunteered with Habitat for Humanity Restore, helping sort donations to be sold in the organization's retail outlet.



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