

# Office of Attorney General Bob McDonnell



Presentation to  
Senate Finance Committee  
October 16<sup>th</sup>, 2007

United States of America v. The Purdue  
Frederick Company, Inc., Michael  
Friedman, Howard Udell, and Paul D.  
Goldenheim

(Western District of Virginia, Abingdon)



# History of OxyContin

- Drug approved by the FDA in 1995 for treatment of moderate-to-severe pain.
- S.W. Virginia local law enforcement noted an increase in the misuse and criminal diversion of OxyContin.
- Dubbed “hillbilly heroin” by law enforcement.



# Initial Investigation

- In 1998, eight law enforcement agencies, including the Medicaid Fraud Control Unit (MFCU), participated in “Operation Octagon.”
- As a result of the initiative, eight doctors were convicted of health care fraud.
- In 2000, then-Attorney General Mark Earley formed the OxyContin Task Force.



**One common denominator  
always seemed to be  
present:**

**The Purdue Companies**

# The Investigation that led to the federal criminal case



- The investigation into Purdue and corporate officers lasted from December 2002 until July of 2007.
- The prosecution was handled by the United States Attorney for the Western District of Virginia and his staff.
- The criminal investigation was handled by eight agencies, but was initiated by the MFCU and FDA.

# Law Enforcement Agencies



## ◦ State

- ▶ Virginia Medicaid Fraud Control Unit
- ▶ Virginia State Police
- ▶ West Virginia State Police

## ◦ Federal

- ▶ FDA, Office of Criminal Investigations
- ▶ IRS, Criminal Investigations Division
- ▶ HHS, Office of Inspector General
- ▶ DoD, Defense Criminal Investigation Service
- ▶ DoL, Office of Inspector General

# This case was the largest, most complex health care fraud case ever seen in the Western District of Virginia



# Criminal Conduct of Purdue and Individual Defendants (corporate officers)



- The investigation revealed that Purdue fraudulently misbranded the drug OxyContin by marketing the drug to physicians as a slower release, less addictive drug than other prescription opioids.
- Purdue's marketing claims were either not supported by the research conducted or contrary to that research.

# Purdue (Corporation) Plea Agreement



- One count of felony misbranding of a drug with the intent to defraud or mislead
- \$276,100,000.00 Asset Forfeiture
- \$130,000,000.00 for civil settlement fund
- \$160,000,000.00 to HHS/Medicaid (state and federal) – civil settlement
- \$20,000,000.00 to the Virginia Prescription Drug Monitoring Program
- \$3,471,220.68 to Medicaid Rebate Recalculation
- \$5,300,000.00 to the Medicaid Fraud Control Unit – investigative costs (program income)
- \$4,628,779.32 to pay for monitoring Program Costs (Corporate Integrity Agreement and Compliance)
- \$500,000.00 court fines, U.S. District Court, Abingdon, Virginia

# Corporate Officers' Plea Agreement



- Defendants are: President, CEO Friedman; Former Exec. VP and Chief Legal Officer, Udell; and Exec. VP of Worldwide Research & Development and Chief Scientific Officer Goldenheim.
- Each pled guilty to one count of misdemeanor misbranding of a drug.
- Each paid an amount to the MFCU (detailed in a later slide).

## The Financial Aspects of the Plea Agreement Accepted by the Court



- Total recoveries from all defendants in the case (Purdue Frederick Co. and the three individual defendants):
  - **\$634,500,000.00**
- Total recoveries from all defendants to the Commonwealth of Virginia:
  - **\$105,201,168.29**



- Funds to the Commonwealth, as with all other recoveries from this criminal case, are strictly limited by the Plea Agreements, representations in pleadings, terms and conditions, and Federal Court Order.
- Thus, the total of **\$105,201,168.29** is broken down in the following manner:

# Breakdown of Virginia's \$ as represented in the plea agreement and accepted by the Federal Court



- **Virginia's Prescription Monitoring Program (to fund program)- \$20,000,000.**
- **Medicaid Restitution to DMAS - \$1,225,168.29**
- **Asset forfeiture to the Virginia Department of State Police - \$44,176,000.**
- **Virginia MFCU - \$39,800,000 (program income fund/criminal investigative costs).**

(breakdown of total: \$5,300,000 from Purdue, the remainder from the corporate officers - \$19,000,000; \$8,000,000; and \$7,500,000.)



Questions????????