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### **PRESS ADVISORY**

#### **Attorney General Sam Olens Announces Settlement with Pharmaceutical Company Cephalon for Anti-competitive Efforts to Hinder Drug Competition**

*August 4, 2016*

ATLANTA, GA- Today, Attorney General Sam Olens announced that Georgia has joined 47 other states in a \$125 million settlement with drug manufacturer Cephalon and affiliated companies ("Cephalon"), now part of Teva Pharmaceutical Industries. The settlement ends a multistate investigation into anti-competitive conduct by Cephalon to protect the monopoly profits it earned from its landmark wakefulness drug, Provigil. Cephalon's conduct delayed generic versions of Provigil from entering the market for several years.

As patent and regulatory barriers that prevented generic competition to Provigil neared expiration, Cephalon intentionally defrauded the Patent and Trademark Office to secure an additional patent, which a court subsequently deemed invalid and unenforceable. Before that court finding, Cephalon was able to delay generic competition for nearly six years by filing patent infringement lawsuits against all potential generic competitors. Cephalon settled those lawsuits in 2005 and early 2006 by paying the generic competitors to delay sale of their generic versions of Provigil until at least April 2012. Because of that delayed entry, consumers, states, and others paid hundreds of millions more for Provigil than they would have had generic versions of the drug launched by early 2006, as expected.

The settlement includes \$35 million for distribution to consumers who bought Provigil. Georgia's total recovery will be approximately \$2,040,560 consisting of: (1) \$300,020.30 to compensate for Provigil purchases by certain state entities or authorized purchases off state contracts; (2) an estimated \$1,236,973.04 for distribution to Georgia consumers for payments for Provigil; and (3) \$503,566.60 for Georgia's share of costs.

This multistate settlement was facilitated by litigation brought against Cephalon by the Federal Trade Commission. In May 2015, the FTC settled its suit against Cephalon for injunctive relief and \$1.2 billion, which was paid into an escrow account. The FTC settlement allowed for those escrow funds to be distributed for settlement of certain related cases and government investigations, such as those of the 48 states.

The settlement is subject to court review, including providing consumers with notice and an opportunity to participate in, object to, or opt out of settlement. The states expect court review will be provided by Judge Mitchell

Goldberg of the Eastern District of Pennsylvania, who is overseeing other litigation concerning Provigil against Cephalon and others.

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### Related Files:

Attachment	Size
 <a href="#">Provigil executed Settlement Agreement 7.28.16.pdf</a>	1.04 MB

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