



## PRESS RELEASE

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**Attorney General Frosh: Maryland Settles Antitrust Case with  
Drug Manufacturer**  
*Anticompetitive conduct delayed generic competition causing Maryland and  
Maryland consumers to pay more for Provigil*

**BALTIMORE, MD (August 4, 2016)** - Maryland Attorney General Brian Frosh announced today that Maryland and 47 other states settled claims that Cephalon, Inc. and its affiliated companies engaged in illegal practices to protect high monopoly profits it earned from its brand-name prescription medicine, Provigil. Provigil is prescribed to improve wakefulness in adults diagnosed with sleep disorders such as obstructive sleep apnea, shift work disorder, or narcolepsy. Through its alleged conduct, Cephalon delayed cheaper generic versions of Provigil from being available for years.

Provigil was a major moneymaker for its manufacturer. Its patent was set to expire in 2006, however, and generic competitors prepared to enter the market at the earliest possible time. Afraid that it would lose revenue from its brand-name product, Cephalon obtained an additional patent for Provigil. A court eventually invalidated this new patent, but before that ruling, Cephalon repeatedly sued generic manufacturers for patent infringement. These lawsuits delayed generic Provigil from entering the market. Through such tactics, Cephalon caused consumers, states and others to pay millions of dollars more for Provigil than they would have, had generic versions been available when Provigil's patent expired in 2006.

"Abuse of monopoly power hurts consumers," said Attorney General Frosh. "Anti-trust laws were put into place to protect competition. I am proud that our office, along with the FTC, has been able to thwart this scheme to overcharge patients who need this medicine."

Under the settlement, Cephalon and its affiliates will pay the states \$125 million. Maryland's share is approximately \$2.6 million. The funds that each state will receive as a result of the settlement will cover consumer compensation, state proprietary compensation (for state purchases) and state disgorgement, costs and fees. At least \$790,000 will be allocated to the consumer compensation fund.

This multistate settlement was facilitated by a lawsuit filed against Cephalon by the Federal Trade Commission. In May 2015, the FTC settled its suit for injunctive relief and \$1.2 billion, a portion of which was to be distributed to settle state government investigations.

Consumers will be notified of their rights under the settlement.

Attorney General Frosh thanks Assistant Attorneys General Gary Honick, Ellen Cooper and John Tennis for their work on this case.