

CEPHALON TO PAY NC MORE THAN \$5 MILLION FOR BLOCKING GENERICS

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AGs contend Cephalon illegally delayed generic versions of Provigil to boost profits

Raleigh: Makers of the popular wakefulness drug Provigil will pay \$125 million including more than \$5 million to North Carolina and its consumers to resolve allegations that the drug makers illegally kept generic versions off the market to boost profits, Attorney General Roy Cooper said Thursday.

“Rigging the marketplace so that drugs cost more than they should harms patients,” Cooper said. “My office will continue to hold pharmaceutical companies accountable when they abuse the law.”

Cooper and 48 additional attorneys general entered [a settlement](#) with pharmaceutical company Cephalon of Pennsylvania, which was facilitated by litigation brought against the company by the Federal Trade Commission.

The settlement includes more than \$5 million in recovery for North Carolina, including:

- Approximately \$1.2 million in relief to North Carolina consumers who bought Provigil;
- Nearly \$2.9 million in reimbursement to state agencies that purchased Provigil;
- Nearly \$1 million in additional penalties and costs.

Cooper and the other attorneys general allege that Cephalon prevented competition against Provigil for nearly six years by intentionally defrauding the Patent and Trademark Office to secure an additional patent on the drug. Cephalon then repeatedly thwarted competition by filing patent infringement lawsuits, which they settled by paying competitors to delay sale of their generic versions of Provigil until at least April 2012. As a result, consumers, hospitals, and government agencies paid hundreds of millions of dollars more for Provigil than they would have if generic versions of the drug had been available sooner.

In May 2015, the FTC settled its suit against Cephalon for injunctive relief and \$1.2 billion. These funds were paid into an escrow account earlier this year to be distributed to resolve certain related cases and investigations, including today’s settlement.

The settlement is subject to court review, including providing consumers with notice and an opportunity to participate in, object to, or opt out of the settlement. The states expect court review will be provided by Judge Mitchell Goldberg of the Eastern District of Pennsylvania, who is currently overseeing other litigation concerning Provigil against Cephalon and others.

Additional information on how eligible consumers can apply for refunds will be available in coming weeks.

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