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Alleges conspiracy to inflate prices, reduce competition

OLYMPIA — A wide-ranging antitrust investigation by Attorney General Bob Ferguson and 45 other attorneys general has uncovered even more involvement in an alleged generic drug price-fixing conspiracy.

The states today asked a federal court to expand their pending complaint, increasing the number of drug companies named from six to 18, and the number of affected drugs from two to 15. The states allege the companies violated antitrust laws to artificially inflate the prices of the drugs, and agreed to divvy up the market for the drugs to reduce competition. Some of the drugs increased in price by more than 1,000 percent.

“I hold powerful interests accountable when they don’t play by the rules,” Ferguson said. “That includes drug companies that conspire to fix prices, costing potentially thousands of Washingtonians in need of medication.”

The [request to file an amended complaint](#) was filed in U.S. District Court for the Eastern District of Pennsylvania.

Previously, the suit named generic drug manufacturers Heritage Pharmaceuticals, Inc.; Aurobindo Pharma USA, Inc.; Citron Pharma, LLC; Mayne Pharma (USA), Inc.; Mylan Pharmaceuticals, Inc.; and Teva Pharmaceuticals USA, Inc. as defendants.

The states are seeking to expand the complaint to include Actavis Holdco U.S., Inc.; Actavis Pharma, Inc.; Ascend Laboratories, LLC; Apotex Corp.; Dr. Reddy's Laboratories, Inc.; Emcure Pharmaceuticals, Ltd.; Glenmark Pharmaceuticals, Inc.; Lannett Company, Inc.; Par Pharmaceutical Companies, Inc.; Sandoz, Inc.; Sun Pharmaceutical Industries, Inc.; and Zydus Pharmaceuticals (USA), Inc.

Generic drugs, which enter the market after a name-brand drug manufacturer loses its exclusive patent rights, offer the prospect of lower prices and greater access to prescriptions for U.S. consumers. For drugs that attract a large number of generic manufacturers, competition between them can decrease the average price by 80 percent or more, compared to brand-name alternatives.

As a result, generic drugs save consumers and the health care industry tens of billions of dollars annually. In 2015, generic drug sales in the United States were estimated at \$74.5 billion, and the

generic pharmaceutical industry accounts for approximately 88 percent of all prescriptions written in the United States.

In July 2014, the state of Connecticut initiated an investigation, later joined by the other states, into suspicious price increases of certain generic pharmaceuticals — in some cases by up to 1,000 percent or more.

The investigation found evidence of direct conversation between drug company executives and marketing and sales executives through in-person meetings, phone calls, text messages and emails over several years, in which they discussed efforts to fix and maintain prices, allocate markets and reduce competition for a number of generic drugs.

For example, Heritage Pharmaceuticals attempted to negotiate a 200 percent price increase for a diabetes medication.

Generic drugs whose prices had increased by more than 100 percent accounted for more than \$500 million in Medicaid drug reimbursements between June of 2013 and June of 2014.

The lawsuit also alleges that the companies knew their conduct was illegal, as they often avoided communicating with each other in writing, and, in some instances, intentionally deleted written communications and text messages.

The original complaint, filed Dec. 14, 2016, alleged the companies entered into illegal conspiracies in order to unreasonably restrain trade, artificially inflate and manipulate prices and reduce competition in the United States for two drugs: doxycycline hyclate delayed release, an antibiotic, and glyburide, an oral diabetes medication.

The expanded complaint also adds allegations that the companies entered into conspiracies involving the following additional generic drugs:

- Acetazolamide, used to treat glaucoma and epilepsy;
- Doxycycline monohydrate, an antibiotic;
- Fosinopril-hydrochlorothiazide, used to treat high blood pressure;
- Glipizide-metformin, a diabetes medication;
- Glyburide-metformin, a diabetes medication;
- Leflunomide, used to treat rheumatoid arthritis;
- Meprobamate, an anxiety medication;
- Nimodipine, a calcium channel blocking agent used to reduce problems caused by a bleeding blood vessel in the brain;
- Nystatin, an antifungal medication;
- Paromomycin, an antibiotic used to treat certain parasite infections;
- Theophylline, used to treat asthma and other lung problems;
- Verapamil, used to treat hypertension; and
- Zoledronic acid, used to treat hypercalcemia.

The lawsuit was filed under seal in the U.S. District Court for the Eastern District of Pennsylvania. Portions of the complaint are redacted in order to avoid compromising the states' ongoing investigation.

Assistant Attorneys General Erica Koscher and Michael Hemker are handling the case.

In addition to Washington, the other states involved in the lawsuit are: Connecticut, Alaska, Alabama, Arkansas, Colorado, Delaware, the District of Columbia, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, West Virginia and Wisconsin.

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