

STATE SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement ("Agreement") is entered into between the State of California ("the State") and Cephalon, Inc. ("Cephalon"), hereinafter collectively referred to as "the Parties."

II. PREAMBLE

As a preamble to this Agreement, the Parties agree to the following:

A. Cephalon is a company incorporated under the laws of Delaware with its headquarters in Frazer, Pennsylvania. At all relevant times, Cephalon manufactured and sold pharmaceutical products in the United States. In 2011, Teva Pharmaceuticals Industries Ltd. acquired Cephalon, and Cephalon became a wholly-owned subsidiary of Teva Pharmaceuticals.

B. On October 28, 2008, Ronald Streck ("Relator") filed a *qui tam* action in the United States District Court for the Eastern District of Pennsylvania captioned *United States of America et al., ex. rel. Streck et al. v. Allergan, et al.*, Civil Action No. 08-CV-5135. This *qui tam* action will be referred to herein as the "Civil Action."

C. Cephalon has entered into a separate civil settlement agreement (the "Federal Settlement Agreement") with the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General of the Department of Health and Human Services (hereinafter referred to as the "United States").

D. The State contends that Cephalon caused claims for payment to be submitted to the State's Medicaid Program (see 42 U.S.C. §§ 1396-1396(v)).

E. The State contends that it has certain civil and administrative causes of action against Cephalon for engaging in the following conduct during the period from January 1, 2007 through March 31, 2012 (the "Covered Conduct"):

1. Pursuant to the Medicaid Drug Rebate Program, Cephalon was required to report the Average Manufacturer Price ("AMP") for each of its covered outpatient drugs to the Centers for Medicare and Medicaid Services ("CMS") on a monthly and quarterly basis, and to pay quarterly rebates to state Medicaid programs that were based, in part, on the quarterly AMPs reported by Cephalon. Prior to enactment of the Affordable Care Act ("ACA"), the AMP for a drug generally was based on the average unit price paid to the manufacturer for the drug by wholesalers for drugs distributed to the retail pharmacy class of trade, including cash discounts and other price concessions that reduced the actual price paid for the drug. The ACA revised the definition of AMP, in part, by replacing the term "retail pharmacy class of trade" with "retail community pharmacies" and including manufacturer direct sales to pharmacies. Both before and after enactment of the ACA, bona fide service fees are excluded from manufacturers' AMP calculations.

2. Cephalon entered into distribution services agreements with wholesalers ("Distribution Services Agreements") to facilitate the distribution and sale of the pharmaceuticals listed on Attachment A hereto ("the Covered Drugs"). Pursuant to the Distribution Services Agreements, the wholesalers performed various specified services, and Cephalon compensated the wholesalers for performing those services by providing the wholesalers quarterly credits calculated as a percentage of the quarterly

sales of the Covered Drugs, subject to certain performance penalties based on criteria set forth in the agreements.

3. The State contends that Cephalon improperly treated compensation provided to the wholesalers pursuant to the Distribution Services Agreements as price reductions, rather than as bona fide service fees, in calculating and reporting quarterly AMPs to CMS for the Covered Drugs. The State contends that, as a result of Cephalon's reporting such improperly reduced AMPs, Cephalon underpaid quarterly rebates owed to the states for the Covered Drugs under the Medicaid Drug Rebate Program, and caused the State Medicaid Program to be overcharged for the Covered Drugs.

F. This Agreement is made in compromise of disputed claims. This Agreement is neither an admission of facts or liability by Cephalon, nor a concession by the State that its claims are not well founded. Cephalon expressly denies the allegations of the State as set forth herein and in the Civil Action. Neither this Agreement, its execution, nor the performance of any obligation under it, including any payment, nor the fact of the settlement, is intended to be, or shall be deemed as, an admission of liability or wrongdoing, or other expression reflecting upon the merits of the dispute by Cephalon.

G. To avoid the delay, expense, inconvenience, and uncertainty of protracted litigation of these causes of action, and in consideration of the mutual promises and obligations of this Agreement, the Parties mutually desire to reach a full and final settlement as set forth below.

III. TERMS AND CONDITIONS

NOW, THEREFORE, in reliance on the representations contained herein and in consideration of the mutual promises, covenants and obligations set forth in this

Agreement, and for good and valuable consideration as stated herein, the Parties agree as follows:

1. Cephalon agrees to pay to the United States and the Medicaid Participating States (as defined in sub-paragraph (c) below), collectively, the sum of \$7,500,000.00 ("Settlement Amount") and interest on the Settlement Amount as set forth in Sections III.1(a) and III.1.(b). The Settlement Amount and applicable interest shall constitute a debt immediately due and owing to the United States and the Medicaid Participating States on the Effective Date of the Federal Settlement Agreement, and subject to the terms of this Agreement. The debt shall forever be discharged by payments to the United States and the Medicaid Participating States, under the following terms and conditions:

(a) Cephalon shall pay to the United States the sum of \$4,319,528.56, plus accrued interest on that amount at the rate of 2.125% per annum from September 26, 2014 to and including the Effective Date of the Federal Settlement Agreement ("Federal Settlement Amount"). The Federal Settlement Amount shall be paid pursuant to the terms of the Federal Settlement Agreement.

(b) Cephalon shall make a single payment to the Medicaid Participating States, consisting of \$3,180,471.44 plus accrued interest (the "Medicaid State Settlement Amount"), subject to the non-participating state deduction provision of Sub-paragraph (d) below ("Medicaid Participating State Settlement Amount"). Interest will accrue at a rate of 2.125% per annum from September 26, 2014 until the day the single payment is made under this Agreement. The single payment shall be made no later than seven (7) business days after the expiration of the 60 day opt-in period for Medicaid Participating States

described in Sub-paragraph (c) below. The Medicaid Participating State Settlement Amount shall be paid by electronic funds transfer to the New York State Attorney General's National Global Settlement Account pursuant to written instructions from the State Negotiating Team ("State Team"), which written instructions shall be delivered to counsel for Cephalon on or before the expiration of the 60 day opt-in period for Medicaid Participating States described in Sub-paragraph (c) below.

(c) A State shall constitute a Medicaid Participating State, provided that the State fully executes a State Settlement Agreement (either in this form to which Cephalon and the State Team have agreed, or in a form otherwise agreed to by Cephalon and the individual State) and delivers it to Cephalon's attorneys within 60 days of receiving this Agreement. If this condition is not satisfied within those 60 days, Cephalon's offer to resolve this matter with the individual State shall become null and void absent written agreement between counsel for Cephalon and the State Team to extend the 60 day period.

(d) The total portion of the amount paid by Cephalon in settlement for the Covered Conduct for the State is \$524,141.39, consisting of a portion paid to the State under this Agreement and another portion paid to the United States as part of the Federal Settlement Agreement. The amount allocated to the State under this Agreement is the sum of \$288,286.50, plus applicable interest (the "State Amount"). If the State does not execute this Agreement within 60 days of receiving this Settlement Agreement, the State Amount shall be deducted from the Medicaid State Settlement Amount and shall not be paid by Cephalon absent written agreement between counsel for Cephalon and the State Team to extend the time period for executing this Agreement.

2. Within fourteen (14) business days of the Effective Date of this Agreement, the State agrees to dismiss with prejudice any state law claims which the State has the authority to dismiss currently pending against Cephalon in State or Federal Courts for the Covered Conduct including any supplemental state law claims asserted in the Civil Action. Contingent upon the receipt of its State Amount, the State, if served with the Civil Action and liable to pay a Relator's share, agrees to pay the Plaintiff-Relator through the State Team an amount to be determined by court hearing or by agreement between the State Team and the Plaintiff-Relator in the Civil Action.

3. Subject to the exceptions in Paragraph 4 below, in consideration of the obligations of Cephalon set forth in this Agreement, and conditioned upon receipt by the State of the State Amount, the State agrees to release Cephalon, together with its current and former parents, divisions, subsidiaries, other affiliates ("affiliate" defined as an entity that controls, or is controlled by, Cephalon through common ownership), predecessors, successors, transferees, heirs and assigns, and their current and former directors, officers, partners, shareholders, representatives, agents, and employees, individually and collectively (collectively, the "Cephalon Released Entities"), from any civil or administrative monetary cause of action that the State has for any claims submitted or caused to be submitted to the State Medicaid Program as a result of the Covered Conduct, including under the State's False Claim Act and any state common law theories, including payment by mistake, unjust enrichment, and fraud. The payment of the State Settlement Amount fully discharges Cephalon from any obligation to pay Medicaid restitution, Medicaid damages, and/or any Medicaid civil fines or civil penalties to the State for the Covered Conduct.

4. Notwithstanding any term of this Agreement, the State specifically does not release any person or entity from any of the following liabilities:

(a) any criminal, civil, or administrative liability arising under state revenue codes;

(b) any criminal liability not specifically released by this Agreement;

(c) except as explicitly stated in this Agreement, any civil or administrative liability that any person or entity, including any Released Entities, has or may have to the State or to individual consumers or state program payors under any statute, regulation or rule not expressly covered by the release in Paragraph 3 above, including but not limited to, any and all of the following claims: (i) State or federal antitrust violations; (ii) Claims involving unfair and/or deceptive acts and practices and/or violations of consumer protection laws;

(d) any liability to the State for any conduct other than the Covered Conduct;

(e) any liability which may be asserted on behalf of any other payors or insurers, including those that are paid by the State's Medicaid program on a capitated basis;

(f) any liability based upon obligations created by this Agreement;

(g) except as explicitly stated in this Agreement, any administrative liability, including mandatory exclusions from the State's Medicaid program;

- (h) any liability for expressed or implied warranty claims or other claims for defective or deficient products and services provided by Cephalon;
- (i) any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct; or
- (j) any liability based on a failure to deliver goods or services due.

5. Cephalon waives and shall not assert any defenses it may have to criminal prosecution or administrative action for the Covered Conduct, which defenses may be based in whole or in part on a contention, under the Double Jeopardy Clause of the Fifth Amendment of the Constitution or the Excessive Fines Clause of the Eighth Amendment of the Constitution, that this Agreement bars a remedy sought in such criminal prosecution or administrative action.

6. In consideration of the obligations of the State set forth in this Agreement, Cephalon waives and discharges the State, its agencies, employees, and agents from any causes of action (including attorneys' fees, costs, and expenses of every kind and however denominated) which Cephalon has against the State, its agencies, employees, and agents arising from the State's investigation and prosecution of the Covered Conduct.

7. The amount that Cephalon must pay to the State pursuant to Paragraph III.1. above will not be decreased as a result of the denial of any claims for payment now being withheld from payment by the State's Medicaid program, or any other state payor, for the Covered Conduct; and Cephalon agrees not to resubmit to the State's Medicaid program or any other state payor, any previously denied claims, which denials were based on the Covered Conduct, and agrees to withdraw the appeal of or not to appeal or cause the appeal of any such denials of claims.

8. Cephalon shall not seek payment from any health care beneficiaries or their parents, sponsors, legally responsible individuals, or third party payors for any claims for reimbursement to the State's Medicaid Program resulting from the Covered Conduct and covered by this Agreement.

9. Cephalon expressly warrants that it has reviewed its financial condition and that it is currently solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I).

10. The Parties each represent that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

11. Cephalon agrees to cooperate fully and truthfully with any State investigation, relating to the Covered Conduct, of individuals or entities not released in this Agreement. Upon reasonable notice, Cephalon shall facilitate, and agrees not to impair, the cooperation of its directors, officers, employees or agents, for interviews and testimony, consistent with the rights and privileges of such individuals and of Cephalon. Upon request, Cephalon agrees to furnish to the State complete and unredacted copies of all non-privileged documents including, but not limited to, reports, memoranda of interviews, and records in their possession, custody or control, concerning the Covered Conduct. Cephalon shall be responsible for all costs it may incur in complying with this paragraph.

12. Except as expressly provided to the contrary in this Agreement, each Party to this Agreement shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

13. Except as otherwise stated in this Agreement, this Agreement is intended to be for the benefit of the Parties only, and by this instrument the Parties do not release any liability against any other person or entity.

14. Nothing in this Agreement constitutes an agreement by the State concerning the characterization of the amounts paid hereunder for purposes of the State's revenue code.

15. In addition to all other payments and responsibilities under this Agreement, Cephalon agrees to pay its share of the reasonable expenses and travel costs of the State Team, including reasonable consultant fees and expenses. Cephalon will pay this amount by separate check made payable to the National Association of Medicaid Fraud Control Units, after the Medicaid Participating States execute their respective Agreements, or as otherwise agreed by the Parties.

16. This Agreement is governed by the laws of the State, and venue for addressing and resolving any and all disputes relating to this Agreement shall be the state courts of appropriate jurisdiction of the State.

17. The undersigned Cephalon signatories represent and warrant that they are authorized as a result of appropriate corporate action to execute this Agreement. The undersigned State signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement on behalf of the State through their respective agencies and departments.

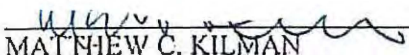
18. The Effective Date of this Agreement shall be the date of signature of the last signatory to this Agreement. Facsimiles of signatures shall constitute acceptable binding signatures for purposes of this Agreement.

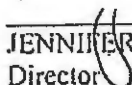
19. This Agreement shall be binding on all successors, transferees, heirs, and assigns of the Parties.

20. This Agreement constitutes the complete agreement between the Parties with respect to this matter and shall not be amended except by written consent of the Parties.

21. This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which shall constitute one and the same Agreement.

STATE OF CALIFORNIA

By:  Date: 9/17/15
MATTHEW C. KILMAN
Deputy Attorney General
California Department of Justice
Bureau of Medi-Cal Fraud and Elder Abuse
1455 Frazee Rd, Ste 315
San Diego, CA 92108

By:  Date: 9/16/15
JENNIFER KENT
Director
Department of Health Care Services
MS 0000
P.O. Box 997413
Sacramento, CA 95899-7413

CEPHALON, INC.

DATED: 9/22/15

[title]

DATED: 9-21-15

BY

Original Signed By:

Rebecca J. Hillier
Counsel for Cephalon Inc.

Dated: 9-21-15

Original Signed By:

James Rodanberg
GC, NA SM

**ATTACHMENT A
COVERED DRUGS**

NDC	DRUG NAME
63459-0100-01	Provigil 100mg
63459-0101-01	Provigil 100 mg
63459-0101-30	Provigil 100 mg
63459-0200-01	Provigil 200 mg
63459-0201-01	Provigil 200 mg
63459-0201-30	Provigil 200 mg
63459-0205-30	Nuvigil 50mg
63459-0205-60	Nuvigil 50mg
63459-0215-30	Nuvigil 150mg
63459-0215-60	Nuvigil 150mg
63459-0225-30	Nuvigil 250mg
63459-0225-60	Nuvigil 250mg
63459-0300-42	Vivitrol 380mg
63459-0390-08	Treanda 25mg/5mL
63459-0391-20	Treanda 100mg/20mL
63459-0402-01	Gabitril 2mg
63459-0402-30	Gabitril 2mg
63459-0404-01	Gabitril 4mg
63459-0404-30	Gabitril 4mg
63459-0412-01	Gabitril 12mg
63459-0412-30	Gabitril 12mg
63459-0416-01	Gabitril 16mg
63459-0416-30	Gabitril 16mg
63459-0502-30	Actiq 200 mcg
63459-0504-30	Actiq 400 mcg
63459-0506-30	Actiq 600 mcg
63459-0508-30	Actiq 800 mcg
63459-0512-30	Actiq 1200 mcg
63459-0516-30	Actiq 1600 mcg
63459-0541-28	Fentora 100mcg
63459-0542-28	Fentora 200mcg
63459-0543-28	Fentora 300mcg
63459-0544-04	Fentora 400mcg
63459-0544-28	Fentora 400mcg
63459-0546-04	Fentora 600mcg
63459-0546-28	Fentora 600mcg
63459-0548-04	Fentora 800mcg
63459-0548-28	Fentora 800mcg
63459-0600-10	Trisenox 100 mg
63459-0700-60	Amrix 15 mg
63459-0701-60	Amrix 30mg