

New Lethal Injection Drug Raises Concerns

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In this April 2008 photo, Terry Crenshaw, warden's assistant at the Oklahoma State Penitentiary, walks past the gurney in the execution chamber in McAlester, Okla. Oklahoma is one of the few states that use pentobarbital in the lethal injection procedure.

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Corrections officials across the country are looking for new options amid a dwindling supply of one of the three drugs used for lethal injections in most states.

Thirty-five states carry out the death penalty, and the lack of sodium thiopental has delayed some executions. On top of that, the only U.S. manufacturer recently announced it would not make the drug anymore.

Ohio officials now say they'll use an alternative anesthetic, pentobarbital, which Oklahoma recently started using in its executions. However, the drug has not been tested, which raises new legal issues.

"The supply is readily available," says Carl LoParo, the Ohio prisons spokesman. "It is manufactured in the United States, so all of those factors played into our decision to move to that drug."

LoParo says the type of pentobarbital his state has chosen is used in some heart surgeries. Another version of the drug is used by veterinarians to euthanize animals.

Pentobarbital is one of three drugs approved for use in Oklahoma executions. But LoParo says Ohio will just use a large dose of this one drug.

"Ohio's method of a single drug protocol has been approved and it's been about a year since that approval has occurred," he says. "We're simply switching the drug."

LoParo says the new drug is widely available, although he would not release the name of Ohio's supplier, saying only that the company also supplies hospitals.

A Direction Others May Follow

Richard Dieter, executive director of the Death Penalty Information Center in Washington, D.C., a group opposed to the death penalty, says Ohio's approach may be the direction other states follow.

Ohio is one of two states that use only a single drug in their executions, but Dieter says it's not clear whether pentobarbital will do what it's supposed to do. Dieter says the issue here, the effectiveness of the anesthesia, is not yet known.

"So a new drug, you know, may have the same purpose, but it doesn't mean it has the same effect on human beings. And there's no way to experiment on executions except by doing them, so there's going to be challenges," he says.

What are these execution drugs? Are they what they say they are? Will they work properly?

- Natasha Minsker, ACLU of Northern California

Hospira, a pharmaceutical company based in Illinois, announced last week that it would no longer produce sodium thiopental, but there's been a shortage of the drug for about a year because the company was having difficulty getting the raw materials to make it.

The shortage forced at least four states to go out of the country to try to get the drug. But some groups are wary of the imported drugs and have filed lawsuits to force states to reveal where and how they got their supply.

"What are these execution drugs?" says Natasha Minsker, death penalty policy director of the Northern California ACLU. "Are they what they say they are? Will they work properly?"

'Too Much Uncertainty'

Minsker says California officials were so desperate to get a supply that they contacted dozens of hospitals and other states to see if any would share. She says there's too much uncertainty about the quality of the supply that has turned up.

"And this drug in particular is critical to whether or not the execution is being done in a proper manner, whether the execution is actually constitutional," she says. "So there's very real questions about whether these drugs can be used and should be used."

Fordham Law School professor Deborah Denno, an expert on lethal injection, says the issue is far from settled. She says legal battles will continue to get prison officials to reveal their sources and drug expiration dates.

"I think this recent litigation shows that attorneys are going to pursue these kinds of issues to the bitter end," she says. "I see this as being a huge problem for states. It's going to delay executions, and there's no ready resolution for what states are going to do. What are they going to do?"

Most aren't telling, but in Ohio, officials say they still have enough of the old drug to carry out an execution set for next month, and they say they'll begin using the new drug, pentobarbital, in March.