Case 15: We’re a Little Short on Death Today

Ohio reprieved all prisoners on death row for 2016 and early 2017 due to the inability to replenish supplies of execution drugs. Thus, without the law being changed, it has become temporarily unenforceable. As reported in a recent newsletter from the Council of State Governments, “A nationwide shortage of sodium thiopental … has thrown capital punishment in the United States into disarray, delaying executions and forcing the change of execution protocols in several states.” While other drugs might serve the same purposes, state or federal laws specify exactly which drugs must be used and how lethal injections must be performed. Any changes in the required protocols will take a long time to go into effect.

Sodium thiopental, pancuronium bromide, and potassium chloride comprise the lethal drug combination most commonly required by law in the United States. They are administered sequentially in that order. Sodium thiopental is a fast-acting barbiturate that brings on unconsciousness in less than thirty seconds. Pancuronium bromide is a muscle relaxant that paralyzes, among other things, the diaphragm and other respiratory muscles, which would cause death by asphyxiation should the third drug fail. Finally, potassium chloride is an electrolyte that, when injected in a large dose, will stop the heart.

At least thirty states in the United States, as well as the US government itself and the US military, permit courts to sentence convicted criminals to death, and lethal injection is the most common form of execution. Even though execution is legal in the United States, a number of professional organizations have taken a stand against the death penalty and what they consider to be inhumane treatment of prisoners, such as solitary confinement and torture. The American Medical Association, the American Pharmacists Association, and the International Academy of Compounding Pharmacists have taken stands against some or all of these practices.

Besides professional organizations, individual companies have weighed in. The only US producer of sodium thiopental, Hospira, announced in 2011 that it will cease production of the drug. It had halted production the previous year because of difficulty in acquiring the raw materials, but it had stated the intention of resuming production at a facility in Italy. The Italian government, however, had demanded that Hospira guarantee that the drug (which is also used to induce general anaesthesia) never be used for lethal injection. Hospira never endorsed the use of the drug for executions, but had no way of preventing it, and since it could not control how the drug would be used, it chose instead to cease production altogether.

In a statement issued on March 28, 2016, Pfizer prohibited the use of seven of its products for the purpose of lethal injection. It will continue to manufacture the products, which have important, life-saving uses; however, there are conditions. They will limit distribution to a handful of warehouses that have agreed not to sell to correctional facilities; they will require government purchasers to certify the drugs will not be used for penal purposes; and they will further require that government purchasers not resell or otherwise provide the drugs to any other party.

Case from the 2017 International Ethics Bowl on February 26, 2017 in Dallas Texas