Ohio to use assisted-suicide drug in executions

ANDREW WELSH-HUGGINS - AP Legal Affairs Writer - Associated Press

Ohio is set to become the first state to execute condemned inmates with a surgical sedative sometimes used in assisted suicides, a switch made as the shortage of the drug normally used for executions has worsened.

Beginning in March, the state execution team will use a single, powerful dose of pentobarbital, the Ohio Department of Rehabilitation and Correction announced Tuesday.

The drug also is used to induce surgical comas and is chemically related to a version of pentobarbital used to euthanize pets. It replaces the anesthetic sodium thiopental, which was already scarce when its only U.S. manufacturer announced last week it would no longer produce it.

Ohio is following the lead of Oklahoma, which switched to pentobarbital last year and has since used it three times. However, Ohio, which used only a single dose of sodium thiopental to execute inmates, would become the first state to use pentobarbital alone, without two additional drugs that paralyze inmates and stop their hearts.

The drug has been used in 200 of the 525 assisted suicides in Oregon since 1998, according to data compiled by the Oregon Public Health Division. It also was prescribed for 5 of 47 assisted-suicide patients in Washington state in 2009, state health statistics show.

Chemically speaking, the pentobarbital used by veterinarians and the product used for human surgeries is the same, said Rich Bednarski, professor of veterinary anesthesia at Ohio State University.

But vets use a far more concentrated version marketed only for euthanasia and often combined with other drugs, Bednarski said.

Ohio is buying its supply from a manufacturer that only produces the drug for use in hospitals, said DRC spokesman Carlo LoParo.

The prisons department said it will use its remaining supply of sodium thiopental for the scheduled execution Feb. 17 of Frank Spisak, who killed three people at Cleveland State University in 1982.

The first use of pentobarbital is planned for March's scheduled execution of Johnnie Baston of Lucas County, condemned to die for shooting the owner of a Toledo store in the back of the head during a 1994 robbery.

Baston's public defender, Rob Lowe, said he was just learning of the change and

could not comment.

Ohio plans to use 5 grams of pentobarbital per execution, the same dosage as the current sodium thiopental injection.

The switch was not unexpected. Ohio has said for weeks that while it had enough sodium thiopental for the Spisak execution, it would not comment about its supply beyond that.

The state nearly ran out of the drug last spring and almost had to postpone an execution before obtaining some at the last moment.

Ohio has no more executions currently scheduled, but prosecutors have asked the Ohio Supreme Court to set additional dates for 14 men whose appeals are concluded.

Attorneys representing condemned inmates are waiting to learn more about the switch. Defense lawyer David Stebbins said a chief concern is that, unlike Oklahoma, Ohio will use the drug by itself.

"We just don't have any information on that, and I'm not sure anybody does since it's never been used that way," Stebbins said Tuesday.

States across the country have scrambled to find supplies of sodium thiopental after Hospira Inc., of Lake Forest, Ill., the drug's lone U.S. manufacturer, stopped producing it more than a year ago.

Hospira, which produced it for medical purposes and not for executions, announced Friday it would not resume production after authorities in Italy refused to allow its production if the company couldn't guarantee it would not be used for capital punishment.

Hospira said its plant in Italy was the only viable facility where it could be manufactured.

Arizona, Arkansas, California and Tennessee are among states that found a supply of sodium thiopental in England, but that source dried up after the British government banned the drug's export for use in executions.

On Tuesday, the U.S. Supreme Court delayed the execution of inmate Emmanuel Hammond in Georgia, where sodium thiopental is part of the three-drug cocktail used in lethal injections. Hammond's attorneys sought more information on how the state obtained the drug, claiming in court filings it came from a "fly-by-night supplier" operating from the back of a London driving school.

Hammond was convicted of the 1988 shotgun killing of a preschool teacher abducted in north Atlanta after her car ran out of gas. Tuesday's order from Justice Clarence Thomas delays Hammond's execution until the court can address the drug concerns raised by his defense team.

Earlier this month, Nebraska announced it had obtained 500 grams of sodium thiopental from a company in India.

In Kentucky, e-mails obtained by The Associated Press showed how the state scrambled to solve two problems after death warrants were requested for three longtime death row prisoners. In an urgent exchange of e-mails in August, corrections officials described simultaneous strategies to find more of the drug and, if they got it, to use it quickly.

While executions on a single day or on consecutive days are not unprecedented, it would've been a departure for Kentucky, which has executed three inmates since the death penalty was reinstated in 1976. Ultimately, Kentucky's short supply of the drug expired and executions have been put on hold because of an injunction unrelated to the drug.

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