

Terry Lenamon on the Death Penalty

Sidebar with a Board Certified Expert Criminal Trial Attorney



Terence M. Lenamon is a Florida Bar certified expert in the area of criminal trial law. With over 17 years experience he has built a reputation as one of Florida's most respected criminal defense lawyers. His defense has been sought by many high-profile clients and has led him through 20 first-degree murder trials and eight death penalty cases. That experience has brought him national recognition as a go-to commentator on death penalty issues. He is the force behind both deathpenaltyblog.com and Florida Capital Resource Center (floridacapitalresourcecenter.org), and can be reached at terry@lenamonlaw.com.

Hospira's Web Notice Discontinuing Execution Drug Has Global Implications – But Will Executions Stop? No: Meet Besse Medical of Ohio

POSTED ON JANUARY 25, 2011 BY **TERRY LENAMON / REBA KENNEDY**

On January 21, 2011, via its website, Illinois drug manufacturer **Hospira, Inc.** fired a shot heard 'round the world as it announced in a short and sweet press release that it would no longer be making sodium thiopental (product name, Pentothal™).

According to Hospira:

Hospira had intended to produce Pentothal at its Italian plant. ... [W]e cannot take the risk that we will be held liable by the Italian authorities if the product is diverted for use in capital punishment. Exposing our employees or facilities to liability is not a risk we are prepared to take.

In short, the Italian government was not pleased that the American drug company was going to be making a drug used in executions not on American soil, but on Italian, and said so. Italy would not allow any sodium thiopental made at a plant within its border to be exported out of the country unless Hospira could guarantee it would not ultimately be used to kill people, and be willing to be liable to the Italian government for any executions that might slip past Hospira's watch. (What a warranty, right?)

Hospira chose to forego making the product at all. Hence, the press release last week and the firestorm that has resulted. Because, as we know, **this comes on the heels of a major shortage of the drug that has impacted state death rows for over a year now.**

What happens to state executions schedules now?

When Hospira announced a delay, some states just stayed their execution schedules. Others tried to move forward with alternatives. For example:

- **Ohio** went for a single-drug lethal injection method.
- **Oklahoma** substituted pentobarbital in their three-drug cocktail, the same drug that is used to euthanize dogs and cats.
- **Arizona** went overseas to buy more product.

Florida, and other states, could follow any one of these three examples. Or, as the Miami Herald points out, **Florida can always return to another form of execution** that is still legally viable: the **electric chair**.

Other **forms of execution that are still legal alternatives** include the firing squad; hanging; and the gas chamber. (For which states allow which method, please refer to **our earlier post**.)

Global Response: Try to Use Marketplace to Halt American Death Penalty

Yesterday, **Germany announced** it will not allow the export of sodium thiopental to the United States. Since Arizona's supplier was from Great Britain, Germany's announcement does not carry that much power in the market.

Meanwhile, Texas reveals it has a domestic supplier – Ohio's Besse Medical.

It took the **Associated Press** using the **Open Records Act** to gain access to this information, but it has been revealed that Texas has a source of execution drugs

here in the United States (although Texas worked hard to keep this information to itself).

Besse Medical is a domestic supplier of sodium thiopental. Now.

So, while Hospira's press release may be getting lots of attention, it's not the biggest news. Besse Medical is just stepping into the gap, and apparently has been doing so for awhile now.