

Message

---

**From:** McCleave, Kelly@CDCR [/O=CA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=KELLY.MCCLEAVE]  
**Sent:** 5/8/2014 11:55:35 PM  
**To:** Rice, Benjamin@CDCR [/O=CA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Benjamin.Rice]; Clauss, Stephanie@CDCR [/O=CA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Stephanie.Clauss]  
**Subject:** update on drug info

Hi Ben/Stephanie,

I need to provide you with an update on barbiturate drug information.

We have been contacted by the supplier who was willing to procure pentobarbital from the manufacturer. They indicated the drug manufacturer contacted them and informed the pharmacy that while it would sell the pentobarbital, the pharmacy must first sign an agreement stating that the pentobarbital would not be resold to any penal system that had the death penalty. So per the pharmacy, the original avenue to acquire pentobarbital is no longer available.

However, they are a compounding pharmacy. Therefore, they stated that the company would be willing to compound Pentobarbital for CDCR if the state of CA will ensure the company's confidentiality. They want the confidentiality assurance prior to signing any contract. In addition, there are initial (one time) startup costs (FDA and DEA fees). These federal fees are associated with licensing to make the drug (\$15,000), inspection of the facility (\$25,000), and testing of the compounded drug (\$15,000). There are some additional start up fees. In total, approximately half of the cost would be startup fees. After the initial one-time startup fees, the cost factor for purchase offsets the price to purchase from the manufacturer. (The manufacturer currently sells a 500 mg vial of Pentobarbital for \$1200. The compounding pharmacy would charge CDCR approximately \$200 to purchase 500 mg of the drug.) In summary, if CDCR wants Pentobarbital compounded, it will cost approximately \$500,000 for an initial 200 gram order because of associated startup fees. After that, the pharmacy will maintain the batch for CDCR. Future orders to test and package will cost approximately \$200 per 500 mg vial. Note – the numbers are preliminary and would be more concretely defined if CDCR indicates an interest in contracting for the service.

The pharmacy also indicated that they are willing to purchase and/or compound any other barbiturate that CDCR desires. This includes compounding Thiopental (no domestic manufacturer) or Secobarbital (domestically only available in pill form). Of all of the barbiturates, Secobarbital is the strongest by far.

Finally, Hexobarbital and Amobarbital are excellent alternatives for Pentobarbital and Thiopental. They work on the body in the same manner as Thiopental and Pentobarbital. Hexobarbital is just stronger than Pentobarbital. Amobarbital is slightly weaker than Pentobarbital. These options would be substantially less expensive.

The compounding pharmacy is asking if the department is interested in any of these options.

How do you wish me to proceed?

Thank you,

Kelly L. McCleave

Attorney III

Legal Affairs Division

916/323-5448

**CONFIDENTIALITY NOTICE:** This communication with its contents is attorney-client legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use, or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. Do not forward or disseminate in any manner without the express written permission of the author. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

Message

---

**From:** McCleave, Kelly@CDCR [/o=CA/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Kelly.McCleave]  
**on behalf of** McCleave, Kelly@CDCR  
**Sent:** 4/16/2014 10:36:21 PM  
**To:** Clauss, Stephanie@CDCR (Stephanie.Clauss@cdcr.ca.gov) [/o=CA/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Stephanie.Clauss]; Rice, Benjamin@CDCR (Benjamin.Rice@cdcr.ca.gov) [/o=CA/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Benjamin.Rice]  
**Subject:** Supply update - Attorney-Client  
**Flag:** Follow up

Hi Ben/Stephanie,

We have been able to locate a source and can get pentobarbital (Nembutal). The list price is \$1,109 per 500 mg (one vial). In addition, there would be fees to cover the source's service costs and attorney fees.

It takes 6 grams per tray. Three trays per execution. There are required three days of training immediately preceding an execution. If mixing of chemicals each training session, it will require an additional 6 grams per training day. That would be a total of 36 grams per each event.

Currently, there are 18 inmates who have exhausted appeals.

If you chose to modify the LI draft to expressly omit "mixing" as a requirement because the team is comprised of medical professionals, that would leave you with only requiring 18 grams per event.

If you order sufficient amounts to cover those with exhausted appeals, (and make the modification to the LI draft regulation and omit a training mix requirement), you would need a total of 324 grams. You can order less. However, this is likely a one-time window to acquire this drug because of pharmaceutical/anti-death penalty activity.

Shelf life of the drug is 24-months.

Pentobarbital (Nembutal) is a schedule II narcotic. We would have to duplicate the same process that we utilized when we purchased the thiopental. A department pharmacy having a DEA number would need to take receipt the

drugs. Then they can release custody of the drugs to the SQ Warden. We would store in the LI Facility as before. I recommend that we proactively contact DEA and request that they do an on-site inspection and sign-off on our storage.

Let me know how you want me to proceed.

Kelly L. McCleave

Attorney III

Legal Affairs Division

916/323-5448

**CONFIDENTIALITY NOTICE:** This communication with its contents is attorney-client legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use, or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. Do not forward or disseminate in any manner without the express written permission of the author. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.