



Thiopental  
Injection BP

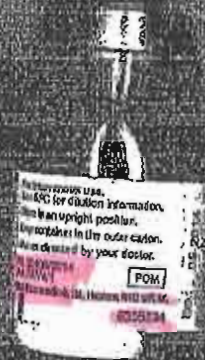
For Injection  
See USP  
Store in  
Keep cool  
Use as directed

Each mL contains  
Thiopental Injection BP  
500 mg

Store at 20° to 25°C

LUNK

LUNK  
E



# Thiopental Injection BP 25 x 500mg vials

Each 20ml vial of powder for solution for injection contains: Thiopental sodium BP 500mg.

Contains no preservative.

For intravenous use.

This contents of 116.500mg vial should be reconstituted with 20ml of Water for injections for a 2.5% (w/v) solution or 10ml of Water for injections for a 5.0% (w/v) solution and administered by intravenous injection.

Store reconstituted solution between 2°C and 8°C in an upright position and use within 7 hours. Use once following reconstitution and discard any residue.

KEEP OUT OF REACH AND SIGHT OF CHILDREN

Do not store above 25°C

Keep container in outer carton.

Administration and dosage: see SPC.

To be used as directed by your doctor.

Link Pharmaceuticals Ltd.  
Horsesham, West Sussex, RH12 1AH, UK.  
PL 12406/0014  
PA 757/44

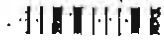
PCM



Exp: -06 2014  
Lot: -A1W8022

LINK

30503B



**From:** Kernan, Scott@CDCR  
**To:** [REDACTED]@CDCR; Duffy, Brian@CDCR  
**Subject:** FW:  
**Date:** Wednesday, September 29, 2010 3:45:57 PM

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**From:** Cate, Matt@CDCR  
**Sent:** Wednesday, September 29, 2010 3:45:47 PM  
**To:** Kernan, Scott@CDCR  
**Subject:** Re:  
Auto forwarded by a Rule

I don't understand why they didn't reach out when we mentioned those avenues specifically. Perhaps [REDACTED] called military hospitals? I have a call into [REDACTED] Veteran's Affairs now.

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**From:** Kernan, Scott@CDCR  
**To:** Cate, Matt@CDCR  
**Sent:** Wed Sep 29 15:40:43 2010  
**Subject:** FW:

Fyi Not sure if you want to go back now and ask?

Still have not heard from AZ. Trying not to press too hard. As soon as I hear from them I'll call you

Scott

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**From:** McAuliffe, John@CDCR  
**Sent:** Wednesday, September 29, 2010 3:37 PM  
**To:** Kernan, Scott@CDCR  
**Subject:** Re:

I called approximately 100 Hospitals and local general surgery centers.

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**From:** Kernan, Scott@CDCR  
**To:** McAuliffe, John@CDCR  
**Sent:** Wed Sep 29 15:32:23 2010  
**Subject:** RE:

Didn't we also canvass local hospitals?

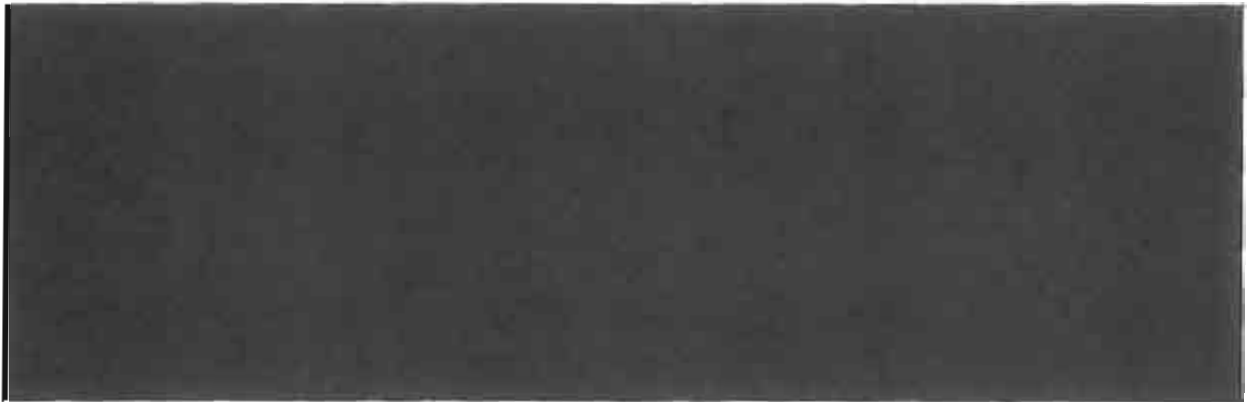
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**From:** McAuliffe, John@CDCR  
**Sent:** Wednesday, September 29, 2010 3:17 PM  
**To:** Kernan, Scott@CDCR  
**Subject:** Re:

Scott

No we did not. With [REDACTED] and the Receiver changing their positions on helping then not helping the National shortage had come in play. We did ask Feds VA OK and TN.

John



**From:** Kernan, Scott@CDCR  
**To:** [REDACTED]@CDCR; Duffy, Brian@CDCR  
**Subject:** FW: Execution Protocol Drugs  
**Date:** Tuesday, September 28, 2010 6:21:25 PM

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**From:** McAuliffe, John@CDCR  
**Sent:** Tuesday, September 28, 2010 6:21:20 PM  
**To:** Kernan, Scott@CDCR  
**Subject:** Fw: Execution Protocol Drugs  
Auto forwarded by a Rule

Fyl

----- Original Message -----

**From:** CHARLES FLANAGAN [REDACTED]@azcorrections.gov>  
**To:** McAuliffe, John@CDCR  
**Cc:** THERESE SCHROEDER [REDACTED]@azcorrections.gov>  
**Sent:** Tue Sep 28 17:38:36 2010  
**Subject:** Execution Protocol Drugs

John:

As we discussed on the phone today, we have followed the lead of Arkansas and purchased the drugs we need from a company in London. Frankly, there was no possibility of getting the Thiopental Sodium/Sodium Pentothal from any source in the U.S., to include from any of the departments of corrections in other states that use the same 3-drug protocol as us.

The name of the company and the person with whom we arranged the purchase is:

[REDACTED]  
011-44  
[REDACTED]

We were able to purchase enough of each drug in our protocol for each of the upcoming executions:

Sodium Pentothal as Thiopental Sodium (could not acquire in U.S.)  
Pancuronium Bromide (could not acquire enough in the U.S.)  
Potassium Chloride (could get in the U.S., but not necessarily in time).

We understand that Arkansas has still not received their drugs and that this may be due to the process of getting the shipment through Customs and the FDA. We have followed the following process to try and expedite the shipment through Customs and the FDA to us:

- We hired our own customs broker, locally, and mandated that the sender, who actually hires Fed Ex to transport, fills out the paperwork to ensure Fed Ex uses our broker, not theirs.

- We ensured that Fed Ex knew, and we documented clearly on all forms, that the "Port of Unladen" be Memphis, TN (the Fed Ex hub for all overseas transports), and the "Port of Entry" be Phoenix, AZ. This gives absolute jurisdiction to the Customs and FDA to the local people and not to those offices in Memphis.

- We called and explained to the [REDACTED] of Customs what we were doing and why, as well as the time-sensitivity and criticality of the issue. He provided us with e-mail verification that the shipment was to be expedited through customs.

- We called and spoke with the [REDACTED] FDA [REDACTED] explaining the same issues and background as we did with Customs (and Customs had already communicated their promise of expeditious handling and why to the FDA). He notified his chain of command to Washington DC, with his recommendation that the shipment be processed expeditiously to us as it was for the purpose of executions and not for use by the general public. That was approved.

- We communicated the same issues to the local Fed Ex folks, who have been helpful in ensuring the refrigerated drugs be refrigerated while held in Phoenix for the few hours between arrival and customs clearance.

- We are sending our [REDACTED] along with the [REDACTED] for the Florence prison (where executions are performed and the drugs are stored) to meet with the FDA official. The FDA will photograph and inventory the contents of the shipment in the presence of our staff. He will then turn the drugs over to us to transport to our secure storage at the prison.

This has been a very staff-intensive and difficult road. I anticipate having the drugs at some time between 0830 and 1000 hrs. tomorrow morning. That will be the true test of the process outlined above. Between ordering to shipment, we had about a 3 working day lapse. Between shipment and receipt, we will have had a little over 2 days.

The final proof will be in the pudding of the acceptance by the court of our statement that we have the drugs in our possession by the deadline some 25 days prior to our first scheduled execution...and then the actual execution and post execution reviews.

I would be happy to speak with whomever you wish about the process in more detail. Let me know if I can ever help on any issue. Thank you also for your assistance with the pancromium.

Charles

Charles Flanagan  
Deputy Director  
Arizona Department of Corrections  
1601 West Jefferson Street  
Phoenix, AZ 85007

[REDACTED]@azcorrections.gov

From: Kernan, Scott@CDCR  
To: [REDACTED]@CDCR; Duffy, Brian@CDCR  
Subject: FW: Drugs  
Date: Thursday, September 09, 2010 1:01:38 PM  
Attachments: Hospira Backorder Report wk of 090610.xlsx

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From: [REDACTED]  
Sent: Thursday, September 09, 2010 1:00:43 PM  
To: Kernan, Scott@CDCR  
Subject: Re: Drugs  
Auto forwarded by a Rule

Scott:

You have heard correct that the production date for the sodium pentothal has been pushed back to 1st Qtr 2011. Attached is the latest Hospira backorder report.

We continue to search for other supplies that may be available and will ship as soon as they are found.

Will keep you informed.

[REDACTED]  
----- Original Message -----

From: Kernan, Scott@CDCR

Sent: Wednesday, September 08, 2010 5:38 PM

[REDACTED]  
We are getting some press inquiries on the Lethal Injection drugs. Hearing that availability may be pushed deep into 2011. Have you heard anything like that? Any luck on finding us anything or date certain when manufacturing will start back up and be available. Sorry to bother you and as always, thanks for your help.

Scott



**From:** Kernan, Scott@CDCR  
**To:** @CDCR; Duffy, Brian@CDCR  
**Subject:** FW: Lethal Injection/Sodium Thiopental  
**Date:** Monday, August 02, 2010 4:20:11 PM

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**From:** Rice, Benjamin@CDCR  
**Sent:** Monday, August 02, 2010 4:20:12 PM  
**To:** Kernan, Scott@CDCR  
**Cc:** Cate, Matt@CDCR  
**Subject:** FW: Lethal Injection/Sodium Thiopental  
Auto forwarded by a Rule

FYI.

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**From:** @oag.ok.gov [mailto: @oag.ok.gov]  
**Sent:** Monday, August 02, 2010 6:15 AM  
**To:** [AG]  
**Cc:**

@oag.state.VA.us; @AZag.gov; @msn.com;  
@SCag.gov; @SCag.gov; @SCag.gov; @SCag.gov;  
@gmail.com; @PalauNet.com; @atg.WA.gov; @oag.state.MD.us;  
@oag.state.NY.us; @SCag.gov; @doj.state.OR.us;  
@ago.MO.gov; @state.SD.us; @ag.TN.gov;  
@state.MA.us; @state.MA.us; @doj.CA.gov;  
@SCag.gov; @SamoaTelco.com; @RIag.state.RI.us;  
@AttorneyGeneral.gov; @law.GA.gov; @Utah.gov; @Michigan.gov;  
@NCdoj.gov; @doj.CA.gov; @oag.state.TX.us;  
@oag.state.TX.us; @ago.MO.gov; @doj.state.OR.us;  
@myFloridalegal.com; @Utah.gov; @riag.RI.gov; @NCdoj.gov;  
@MT.gov; @myFloridalegal.com; @Michigan.gov;  
@state.CO.us; @KSag.org; @Michigan.gov;  
@myFloridalegal.com; @oag.state.TX.us; @doj.CA.gov;  
@Arkansasag.gov; @ag.KY.gov; @state.OR.us;  
@doj.CA.gov; @ArkansasAG.gov; @ag.TN.gov;  
@Ohioattorneygeneral.gov; @Alaska.gov;  
@oag.state.OK.us; @atg.state.IL.us; @Maine.gov;  
@NAAG.org; @ag.state.LA.us; @ag.NV.gov; @DOJ.gov.VI;  
@oag.state.TX.us; @oag.state.MD.us; @atg.state.IL.us;  
@oag.state.TX.us; @Ohioattorneygeneral.gov;  
@state.DE.us; @doj.NH.gov; @oag.state.TX.us;  
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@oag.state.TX.us; @atg.state.IL.us; @ag.KY.gov;  
@state.DE.us; @doj.state.OR.us; @po.state.CT.us;  
@NJdci.org; @NJdci.org; @Ohioattorneygeneral.gov;  
@doj.state.OR.us; @doj.state.OR.us; @atg.IN.gov;  
@Nebraska.gov; @state.DE.us; @ag.Idaho.gov;  
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@NAAG.org; @po.state.CT.us; @state.CO.us;  
@ago.MO.gov; @state.CO.us; @AZag.gov;

@doj.state.OR.us; @oag.state.TX.us; @oag.state.TX.us;  
@myFloridalegal.com; @ago.state.MS.us; @oag.state.VA.us;  
@atg.state.VT.us; @oag.state.MD.us; @oag.state.TX.us;  
@myFloridalegal.com; @doj.state.OR.us; @Arkansas.gov;  
@oag.state.VA.us; @oag.state.VA.us; @ArkansasAG.gov;  
@atg.IN.gov; @AZag.gov; [AG]; @doj.CA.gov;  
@state.MN.us; @ago.NE.gov; @oag.state.VA.us;  
@Michigan.gov; @doj.state.OR.us; @KSeq.org; @ND.gov;  
@ag.Idaho.gov; @co.dakota.MN.us; @AZag.gov;  
@oag.state.TX.us; @GuamAttorneyGeneral.com; @oag.state.VA.us;  
@ago.state.MS.us; @oag.state.NY.us; @michigan.gov;  
@Hawaii.gov; @doj.state.WI.us; @state.WY.us; @Honolulu.gov;  
@doj.state.OR.us; @riag.RI.gov; @co.anoka.MN.us;  
@oag.state.TX.us; @oag.state.TX.us; @ag.NV.gov;  
@Michigan.gov; @NCdoj.gov; @ago.state.AL.us; @NCdoj.gov;  
@oag.state.TX.us; @state.WY.us; @ag.KY.gov;  
@po.state.CT.us; @myFloridalegal.com; @NMag.gov;  
@doj.state.WI.us; @Michigan.gov; @ohioattorneygeneral.gov;  
@MT.gov; @ago.state.AL.us; @law.GA.gov; @Alaska.gov;  
@state.MA.us; @oag.state.TX.us; @NMag.gov;  
@co.dakota.MN.us; @doj.state.WI.us; @doj.state.WI.us;  
@state.MA.us; @myFloridalegal.com; @atg.WA.gov;  
@state.DE.us; @state.MN.us; @oag.state.TX.us;  
@ago.state.MS.us; @law.GA.gov; @Arkansasag.gov;  
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@doj.CA.gov; @Ohioattorneygeneral.gov; @doj.CA.gov;  
@myFloridalegal.com; [AG]; @state.SD.us; @Michigan.gov;  
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@Ohioattorneygeneral.gov; @Ohioattorneygeneral.gov;  
@ago.MO.gov; @oag.state.TX.us; @atg.IN.gov;  
@doj.state.WI.us; @doj.state.OR.us; @doj.NH.gov;  
@oag.state.TX.us; @oag.state.TX.us; @ago.state.MS.us;  
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@Ohioattorneygeneral.gov; @doj.NH.gov; @Phlla.gov;  
@oag.state.TX.us; @oag.state.TX.us; @oag.state.TX.us;  
@oag.state.TX.us; @DOJ.gov.VI; @NAAG.org; @oag.state.VA.us;  
@doj.CA.gov; @doj.state.WI.us; @Alaska.gov;  
@Ohioattorneygeneral.gov; @Maine.gov; @NAAG.org;  
@doj.CA.gov

**Subject:** Lethal Injection/Sodium Thiopental

In Oklahoma, the law provides that an execution must be inflicted by an ultra short-acting barbiturate, as well as other drugs. As many of you are aware, sodium thiopental is in short supply. At this point, Oklahoma has an execution scheduled for August 17 and we have not been successful in finding any sodium thiopental to carry out the execution. I understand that other states have run into this problem. Can you please advise me of the course of action that has been taken in this situation? Or, if anyone has any information on how to obtain this drug or any other ultra short-acting barbiturate, that would be extremely helpful.

Thank you.

**From:** Kernan, Scott@CDCR  
**To:** [REDACTED]@CDCR; Duffy, Brian@CDCR  
**Subject:** FW: Matt Conversation  
**Date:** Wednesday, August 18, 2010 5:28:31 PM

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**From:** Duffy, Brian@CDCR  
**Sent:** Wednesday, August 18, 2010 5:28:30 PM  
**To:** Kernan, Scott@CDCR  
**Subject:** Malt Conversation  
**Auto forwarded by a Rule**

Matt asked if it was worth talking to [REDACTED] and seeing if they have the necessary drugs as they have health care facilities. Also, he talked to [REDACTED] ?? From Washington about how they obtained the drugs. Apparently, Washington called every community hospital in the state and found one that had some they could borrow. Matt thought we should contact community hospitals (probably excluding the bay area) in the state to see if we can find any in stock.

Brian

**From:** Kernan, Scott@CDCR  
**To:** [REDACTED]@CDCR; Duffy, Brian@CDCR  
**Subject:** FW: Ca Drugs  
**Date:** Monday, September 20, 2010 1:52:35 PM

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**From:** Cate, Matt@CDCR  
**Sent:** Monday, September 20, 2010 1:52:15 PM  
**To:** Kernan, Scott@CDCR; [REDACTED]  
**Cc:** [REDACTED]; Rice, Benjamin@CDCR  
**Subject:** RE: Ca Drugs  
Auto forwarded by a Rule

[REDACTED]

Thank you very much for working so hard on our behalf. You've done a great job "beating the bushes" and finding the first dose - I appreciate it a great deal. At this point, I would like to take you up on your offer to reach out to Governor Perry. I promised to give Executive Director Livingston a call before we took that step, so I will reach out to him today and let him know. I'll email everyone on this string once Brad and I have had our conversation. Thanks again,

Matt

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**From:** Kernan, Scott@CDCR  
**Sent:** Monday, September 20, 2010 6:32 AM  
**To:** [REDACTED]  
**Cc:** [REDACTED] Cate, Matt@CDCR; Rice, Benjamin@CDCR  
**Subject:** RE: Ca Drugs

[REDACTED]

Thank you very much. We sure appreciate all your efforts. I'll let you know how Matt wants to go forward with Texas after talks with Governor. Let you know hopefully today.

Scott

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**From:** [REDACTED]  
**Sent:** Friday, September 17, 2010 3:02 PM  
**To:** Kernan, Scott@CDCR  
**Cc:** [REDACTED]  
**Subject:** Fw: Ca Drugs

Scott:

One of the lessons of life is that bad news doesn't get better with time. Unfortunately, despite numerous calls and contacts yesterday and today, we have been unable to secure any additional

supplies of sodium pentothal *at this time*.

Scott, we will continue to search but as I promised you and Matt, I wanted to give you a definitive answer before Monday.

While we continue to look for an existing supply, [REDACTED] remains willing to call Governor Perry and ask for his assistance in putting a string on TDCJ's supply should you need it before new production resumes.

Please let us know how to proceed.

[REDACTED]

----- Original Message -----

From: [REDACTED]  
Cc: [REDACTED]  
Sent: Thursday, September 16, 2010 5:09 PM  
Subject: Re: Ca Drugs

Mr. [REDACTED]

We have contacted 80-90 hospitals over the past few days and none of them have a drop of Pentothal. Most have been out for quite some time. I still have folks in the industry keeping an eye out and I will let you know if I hear of any leads.

thanks,

[REDACTED]  
p. 806


[REDACTED]

Can you get us an official update availability production timelines? Also [REDACTED] any luck on getting that other supply of sodium pentothal?

[REDACTED]

----- Original Message -----

From: Kernan, Scott@CDCR  
To: [REDACTED]  
Sent: Wednesday, September 08, 2010 5:38 PM

  
We are getting some press inquiries on the Lethal Injection drugs. Hearing that availability may be pushed deep into 2011. Have you heard anything like that? Any luck on finding us anything or date certain when manufacturing will start back up and be available. Sorry to bother you and as always, thanks for your help.

Scott

From: Kernan, Scott@CDCR  
To: [REDACTED]@CDCR; Duffy, Brian@CDCR  
Subject: FW: LI  
Date: Thursday, September 23, 2010 11:38:54 AM

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From: McAuliffe, John@CDCR  
Sent: Thursday, September 23, 2010 11:38:05 AM  
To: Kernan, Scott@CDCR  
Subject: Re: LI  
Auto forwarded by a Rule

Scott  
We will be training Saturday, Sunday and Monday from 5AM to 1PM. You would not be in the way Ben Rice stated he was going to come by Sunday.  
We have enough of the chemicals for six executions to include practice. Currently at SQ

Thiopental. 7.5 grams  
Pancuronium Bromide 2100 mg  
Potassium Chloride. 8400 mEq

350 mg of Bromide per execution to include training

1400 mEq of Potassium Chloride per execution to include training

AZ is asking for 320 mg of Pancuronium Bromide and 760 mEq of Potassium Chloride for one upcoming execution date not set yet. We have a supply for 6 executions of the 2 drugs. Since Brown may end up 1 drug give AZ. 350 mg of Pancuronium Bromide and 1400 mEq of Potassium Chloride. This will keep SQ's inventory exact only difference 5 vs 6 executions.  
John

----- Original Message -----  
From: Kernan, Scott@CDCR  
To: McAuliffe, John@CDCR  
Sent: Thu Sep 23 08:29:58 2010  
Subject: RE: LI

John,

Talked with Matt. He needs to know how much we have (how many executions worth), how much we think we can loan them, when do we expect to get replenished if necessary, and the urgency of their request, when to they need it. Get that to me and I'll make it happen.

I was thinking of running to SQ over the weekend to just check on things and thank the staff. Would that be getting in the way? What is your assessment of how things are going?

Thx

Scott

-----Original Message-----  
From: McAuliffe, John@CDCR  
Sent: Thursday, September 23, 2010 8:05 AM  
To: Kernan, Scott@CDCR  
Subject: Fw: LI

Scott

I talked to AZ this morning they are looking for the 2nd and 3rd drugs. See email. I told them I would get back to you.  
John

----- Original Message -----

From: THERESE SCHROEDER [REDACTED]@azcorrections.gov>  
To: McAuliffe, John@CDCR  
Cc: ROBERT PATTON [REDACTED]@azcorrections.gov>  
Sent: Thu Sep 23 07:59:02 2010  
Subject: Re: LI

Thank you so much for your assistance. ADC needs all 3 drugs and I understand that you are able to assist with Pancuronium Bromide and Potassium Chloride.

You can reach me or Division Director of Operations Robert Patton at [REDACTED]

Thank you,  
Therese Schroeder  
Security Operations Administrator

>>> "McAuliffe, John@CDCR" <John.McAuliffe@cdcr.ca.gov> 9/22/2010 10:27 PM >>>  
Your email was forwarded to me. I have contacted the Undersecretary and he has asked that you contact me. Please call me at [REDACTED] Look forward to your call.  
John McAuliffe



**From:** Kernan, Scott@CDCR  
**To:** [REDACTED]@CDCR; Duffy, Brian@CDCR  
**Subject:** FW: Hospira Sodium Thiopental  
**Date:** Tuesday, September 28, 2010 8:09:56 AM

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-----  
**From:** Rice, Benjamin@CDCR  
**Sent:** Tuesday, September 28, 2010 8:09:53 AM  
**To:** Kernan, Scott@CDCR  
**Subject:** Re: Hospira Sodium Thiopental  
Auto forwarded by a Rule

Yep.

----- Original Message -----  
**From:** Kernan, Scott@CDCR  
**To:** Rice, Benjamin@CDCR  
**Sent:** Tue Sep 28 08:09:30 2010  
**Subject:** Fw: Hospira Sodium Thiopental

Maybe this explains rumor. I shot note to [REDACTED] but no response.  
Scott

----- Original Message -----  
**From:** McAuliffe, John@CDCR  
**To:** Kernan, Scott@CDCR  
**Cc:** Rice, Benjamin@CDCR; Slavln, Bruce@CDCR; McCleave, Kelly@CDCR; Cullen, Vincent@CDCR  
**Sent:** Tue Sep 28 08:02:22 2010  
**Subject:** Hospira Sodium Thiopental

Scott  
Hospira the manufacturer of Sodium Thiopental yesterday announced that they are going to send out letters to all 35 states that have lethal injection stating "they do not want their drug (Sodium Thiopental) used for executions.". Not sure how this will effect our current and/or future orders? I will call Hospira directly after this execution.  
John

From: Kernan, Scott@CDCR  
To: [REDACTED]@CDCR; Duffy, Brian@CDCR  
Subject: FW: Hospira Sodium Thiopental  
Date: Tuesday, September 28, 2010 8:43:35 AM

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-----  
From: Duffy, Brian@CDCR  
Sent: Tuesday, September 28, 2010 8:43:29 AM  
To: Kernan, Scott@CDCR  
Subject: RE: Hospira Sodium Thiopental  
Auto forwarded by a Rule

Just checked Hospira's web site. They didn't have anything listed that I could find. Went through their press releases.

-----Original Message-----  
From: Kernan, Scott@CDCR  
Sent: Tuesday, September 28, 2010 8:35 AM  
To: [REDACTED]@CDCR; Duffy, Brian@CDCR  
Subject: FW: Hospira Sodium Thiopental

-----  
From: McAuliffe, John@CDCR  
Sent: Tuesday, September 28, 2010 8:35:23 AM  
To: Kernan, Scott@CDCR  
Subject: Re: Hospira Sodium Thiopental  
Auto forwarded by a Rule

This was on news last night. I have not seen nor heard if letter has been sent out yet.  
John

----- Original Message -----  
From: Kernan, Scott@CDCR  
To: McAuliffe, John@CDCR  
Sent: Tue Sep 28 08:09:58 2010  
Subject: Re: Hospira Sodium Thiopental

Is this just rumor or have we seen letter?

----- Original Message -----  
From: McAuliffe, John@CDCR  
To: Kernan, Scott@CDCR  
Cc: Rice, Benjamin@CDCR; Slavin, Bruce@CDCR; McClear, Kelly@CDCR; Cullen, Vincent@CDCR  
Sent: Tue Sep 28 08:02:22 2010  
Subject: Hospira Sodium Thiopental

Scott  
Hospira the manufacturer of Sodium Thiopental yesterday announced that they are going to send out letters to all 35 states that have lethal injection stating "they do not want their drug (Sodium Thiopental) used for executions.". Not sure how this will effect our current and/or future orders? I will call Hospira directly after this execution.  
John

From: Kernan, Scott@CDCR  
To: [REDACTED]@CDCR; Duffy, Brian@CDCR  
Subject: FW: Execution Protocol Drugs  
Date: Wednesday, September 29, 2010 10:25:03 AM

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From: [REDACTED]  
Sent: Wednesday, September 29, 2010 10:25:26 AM  
To: Kernan, Scott@CDCR  
Subject: Re: Execution Protocol Drugs  
Auto forwarded by a Rule

Scott:

We will check it out and let you know.

[REDACTED]  
----- Original Message -----  
From: "Kernan, Scott@CDCR" <Scott.Kernan@cdcr.ca.gov>  
To: [REDACTED]  
Sent: Wednesday, September 29, 2010 10:19 AM  
Subject: FW: Execution Protocol Drugs

[REDACTED]  
Please check out this email string. Sounds like Arizona has found a way to get it via customs. I am calling AZ this morning and see if they will lend us enough for one execution and try to contact the vendor and see if they can get us additional quantity. What do you think?

Scott

-----Original Message-----  
From: McAuliffe, John@CDCR  
Sent: Tuesday, September 28, 2010 6:21 PM  
To: Kernan, Scott@CDCR  
Subject: Fw: Execution Protocol Drugs

Fyl

----- Original Message -----  
From: CHARLES FLANAGAN [REDACTED]@azcorrections.gov>  
To: McAuliffe, John@CDCR  
Cc: THERESE SCHROEDER [REDACTED]@azcorrections.gov>  
Sent: Tue Sep 28 17:38:36 2010  
Subject: Execution Protocol Drugs

John:

As we discussed on the phone today, we have followed the lead of Arkansas and purchased the drugs we need from a company in London. Frankly, there was no possibility of getting the Thlopental Sodium/Sodium Pentothal from any source in the U.S., to include from any of the departments of corrections in other states that use the same 3-drug protocol as us.

The name of the company and the person with whom we arranged the purchase is:



We were able to purchase enough of each drug in our protocol for each of the upcoming executions:

Sodium Pentothol as Thiopental Sodium (could not acquire in U.S.)  
Pancuronium Bromide (could not acquire enough in the U.S.)  
Potassium Chloride (could get in the U.S., but not necessarily in time).

We understand that Arkansas has still not received their drugs and that this may be due to the process of getting the shipment through Customs and the FDA. We have followed the following process to try and expedite the shipment through Customs and the FDA to us:

- We hired our own customs broker, locally, and mandated that the sender, who actually hires Fed Ex to transport, fills out the paperwork to ensure Fed Ex uses our broker, not theirs.
- We ensured that Fed Ex knew, and we documented clearly on all forms, that the "Port of Unladen" be Memphis, TN (the Fed Ex hub for all overseas transports), and the "Port of Entry" be Phoenix, AZ. This gives absolute jurisdiction to the Customs and FDA to the local people and not to those offices in Memphis.
- We called and explained to the [redacted] of Customs what we were doing and why, as well as the time-sensitivity and criticality of the issue. He provided us with e-mail verification that the shipment was to be expedited through customs.
- We called and spoke with the [redacted] FDA [redacted], explaining the same issues and background as we did with Customs (and Customs had already communicated their promise of expeditious handling and why to the FDA). He notified his chain of command to Washington DC, with his recommendation that the shipment be processed expeditiously to us as it was for the purpose of executions and not for use by the general public. That was approved.
- We communicated the same issues to the local Fed Ex folks, who have been helpful in ensuring the refrigerated drugs be refrigerated while held in Phoenix for the few hours between arrival and customs clearance.
- We are sending our Pharmacy Program Manager, along with the Deputy Warden of Operations for the Florence prison (where executions are performed and the drugs are stored) to meet with the FDA official. The FDA will photograph and inventory the contents of the shipment in the presence of our staff. He will then turn the drugs over to us to transport to our secure storage at the prison.

This has been a very staff-intensive and difficult road. I anticipate having the drugs at some time between 0830 and 1000 hrs. tomorrow morning. That

**From:** Kernan, Scott@CDCR  
**To:** [REDACTED]@CDCR; Duffy, Brian@CDCR  
**Subject:** FW: Thiopental Injection  
**Date:** Thursday, September 30, 2010 9:19:58 AM  
**Attachments:** Master Service Agreement Template\_06.05.09.05.DOC

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**From:** McAuliffe, John@CDCR  
**Sent:** Thursday, September 30, 2010 9:19:31 AM  
**To:** Kernan, Scott@CDCR  
**Subject:** FW: Thiopental Injection  
**Auto forwarded by a Rule**

FYI  
John

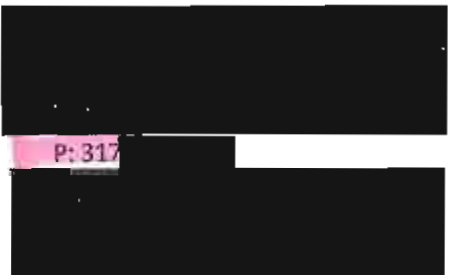
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**From:** [REDACTED]  
**Sent:** Thursday, September 30, 2010 9:15 AM  
**To:** McAuliffe, John@CDCR  
**Cc:** [REDACTED]  
**Subject:** RE: Thiopental Injection

Received.

I have attached our standard contract (MSA). A Statement of Work (SOW) will define exact work to be conducted.

Please review and redline any issues.



---

**From:** McAuliffe, John@CDCR [mailto:John.McAuliffe@cdcr.ca.gov]  
**Sent:** Thursday, September 30, 2010 12:05 PM  
**To:** [REDACTED]  
**Subject:** FW: Thiopental Injection  
**Importance:** High

[REDACTED]  
Thank you again here is the information and email.

John McAuliffe

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**From:** [REDACTED]  
**Sent:** Thursday, September 30, 2010 5:27 AM  
**To:** McAuliffe, John@CDCR  
**Subject:** Thiopental Injection  
**Importance:** High

30-09-10

Dear Mr. McAuliffe,

Thank you for your call and thank you for your interest in [REDACTED]

I would be happy to supply you:

Thiopental Injection , powder for reconstitution, thiopental sodium, 500-mg vial packs of 25's £196.75 (pounds sterling)

The current expiry date is February 2014.

POTASSIUM CHLORIDE 1.5GM 10ML INJ. PACKS OF 10      £15.55

Expiry date: 01/13

Pancuronium Injection, pancuronium bromide 2 mg/mL, 2-mL amp packs of 10's  
£58.73

Expiry date: 11/11

If you could supply me with the following information, I can produce a proforma invoice:

Invoice address

Delivery address, including contact person and contact person phone number

I will dispatch the goods to you by FedEx,  
FedEx delivery charges is separate item.

In order to get the product easier through US customs, I think it would be a goods idea for you to write a letter in the department letterhead, attention of US custom and let them know why you need this product. I would include this letter in your shipment.

Please also email or fax me a copy of your DEA license, to include it in your shipment.

Please let me know if you need further information.

Many thanks,  
Kind regards

[REDACTED]  
[REDACTED]  
Tel: 44 [REDACTED]  
[REDACTED]



**MASTER SERVICE AGREEMENT TO PROVIDE PHARMACEUTICAL SUPPORT SERVICES**

THIS MASTER SERVICE AGREEMENT TO PROVIDE PHARMACEUTICAL SUPPORT SERVICES (this "MSA") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, a(n) \_\_\_\_\_, having its principal place of business at \_\_\_\_\_ (the "Client") and \_\_\_\_\_ an \_\_\_\_\_ (the "Facility"). As used in this MSA, the term "Facility" will also include any additional facilities which may be operated by \_\_\_\_\_ in the future, so long as such facilities meet the same quality standards as the Facility.

**Preliminary Statements**

WHEREAS, \_\_\_\_\_ is in the business of providing biological, pharmaceutical and medical device support services including, but not limited to, storage and distribution of products under controlled temperatures (the "Services");

WHEREAS, the Client wishes to store certain of its products and supplies (Individually, a "Product", and collectively, the "Products") at the Facility;

WHEREAS, this MSA sets forth the general terms and conditions under which \_\_\_\_\_ will store the Client's Products;

NOW, THEREFORE, in consideration of the covenants, representations, warranties and mutual agreements in this MSA contained, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, \_\_\_\_\_ and the Client agree as follows:

**Terms and Conditions**

**Section 1. General Terms.**

**Section 1.1 Definitions.** When used herein, the capitalized terms above shall have the meanings therein stated and the following capitalized terms shall have the meaning ascribed to them below. Any capitalized term used but not defined in this MSA has the same meaning as used in the SOW or any subsequent Statement of Work.

- (a) "Client Parties" shall have the meaning ascribed thereto in Section 6.2.
- (b) "Confidential Information" shall have the meaning ascribed thereto in Section 5.1.
- (c) "Indemnitee" shall have the meaning ascribed thereto in Section 6.3.
- (d) "Indemnitor" shall have the meaning ascribed thereto in Section 6.3.
- (e) "Initial Period" shall have the meaning ascribed thereto in Section 2.1.
- (f) "Offer Period" shall have the meaning ascribed thereto in Section 3.2(a).
- (g) "Renewal Period" shall have the meaning ascribed thereto in Section 2.1.
- (h) \_\_\_\_\_ Claims" shall have the meaning ascribed thereto in Section 6.1.
- (i) \_\_\_\_\_ Parties" shall have the meaning ascribed thereto in Section 6.1.

- (j) "SOW" shall have the meaning ascribed thereto in Section 1.2.
- (k) "Statement of Work" shall have the meaning ascribed thereto in Section 1.2.
- (l) "Term" shall have the meaning ascribed thereto in Section 2.1.

**Section 1.2 Relationship Between MSA and Statements of Work.** [REDACTED] will store the Products in accordance with the terms set forth in this MSA and a separate work order specific to a particular Product or Products (each, a "Statement of Work"). A Statement of Work may be modified from time to time by way of an amended or supplemental Statement of Work signed by both parties. The parties have contemporaneously executed a Statement of Work No. 1 (the "SOW"), which is attached as Exhibit 1 to this MSA. Additional future Statements of Work will be attached as Exhibits in consecutive order. In the event of any conflict or contradiction between the provisions of the SOW or any other Statement Of Work and this MSA, the SOW will control, but to the maximum extent reasonably practicable each Statement of Work will be deemed to be a supplement to this MSA.

**Section 1.3 Right to Store Goods.** The Client represents and warrants that the Client is in lawful possession and has full legal title to every Product to be stored in the Facility (or to be handled in any manner by [REDACTED] and has the right and authority to store them at the Facility and to engage [REDACTED] to perform the Services. The Client will provide [REDACTED] with information concerning the Product(s) which is accurate, complete and sufficient to enable [REDACTED] to comply with all laws and regulations concerning the storage, handling and transportation of the Product(s), including, but not limited to, any facts or circumstances that may make either the Product(s), the transportation of the Product(s), or the storage of the Product(s) in any way hazardous to health.

**Section 1.4 Packaging and Labeling.** To the extent that any Statement of Work provides that [REDACTED] will provide packaging and/or labeling services for the Client, the Client will deliver to [REDACTED] either: (a) the applicable packaging materials and/or labels; or (b) detailed instructions, including label text and artwork, for all packages and labels, including all information required by applicable law to be included on the label of the applicable Product (and the Client acknowledges that [REDACTED] will rely on the accuracy of such information without additional independent investigation).

**Section 1.5 Domestic Distribution of Commercial Pharmaceutical Products.** If applicable, [REDACTED] will distribute pharmaceutical products within the continental United States in compliance with its VAWD accreditation and license, and in compliance with the various state licenses which it currently holds. If Client requests distribution to states in which [REDACTED] does not currently hold a state license which permits them to do so, then Client must notify [REDACTED] of this request and give [REDACTED] reasonable time to secure that state license. [REDACTED] retains the right to refuse distribution to the given state if, in its sole discretion, it decides that the burden of securing the license outweighs the current business opportunity.

**Section 2. Term/Termination.**

**Section 2.1 Term.** This MSA will commence on the date set forth above and will have an initial term of three (3) years (the "Initial Period") and will automatically renew for additional one-year periods (each a "Renewal Period") at the end of the Initial Period and each Renewal Period thereafter unless the Client or [REDACTED] provides written notice to the other of its decision not to renew the MSA at least sixty (60) days prior to the expiration of the Initial Period or the then-current Renewal Period. Notwithstanding the foregoing, this MSA will continue until satisfaction of any obligations under any Statement of Work which is executed during the Initial Period or any applicable Renewal Period. The period that this MSA is actually in effect in accordance with the provisions hereof is referred to in this MSA as the "Term".



**Section 2.2 Termination of this MSA for Breach.** In the event of a material breach of this MSA or a Statement of Work by either party (including, but not limited to, the Client's failure to pay all Charges as specified in this MSA by the due date) the other party may terminate this MSA upon thirty (30) days prior written notice to the breaching party, provided that such breach is not cured as contemplated below. The notice will describe the material breach in reasonable detail. The receiving party will be entitled to cure the material breach during such thirty (30) day period and, if not cured, this MSA and all Statements of Work will terminate effective at the end of the thirty (30) day period; provided, however, all accrued rights and obligations, including the Client's obligations to pay any and all Charges due hereunder with respect to the period prior to the termination date, will survive the termination of this MSA (and the Statements of Work) until fully discharged.

**Section 2.3 Termination of Statement of Work.** A Statement of Work may be terminated by either party, with or without cause, upon ninety (90) days prior written notice to the other party; provided, however, all accrued rights and obligations, including the Client's obligations to pay any and all Charges due thereunder with respect to the period prior to the termination date, will survive the termination of the Statement of Work (and this MSA) until fully discharged. Termination of a Statement of Work will not terminate this MSA unless the terminating party is entitled to terminate this MSA in accordance with Section 2.2 (and properly exercises such right in accordance with such section).

**Section 3. Compensation.**

**Section 3.1 Terms of Payment.** [REDACTED] will provide the Client a monthly invoice setting forth all of the Charges then due. Payment of the Charges is due within thirty (30) days of date of the applicable invoice. In the event any Charges are not paid when due, a late payment fee equal to five percent (5%) of the Charges then due will be assessed against the Client. Any Charges not paid within thirty (30) days of the date of invoice will accrue interest at the maximum rate allowed by law, in addition to the five percent (5%) late payment fee. The Client will reimburse [REDACTED] or all costs [REDACTED] incurs (including reasonable attorneys' fees and collection costs) in collecting amounts owed by the Client.

**Section 3.2 Offer Period.**

(a) The Charges quoted on a Statement of Work will remain valid for a period of thirty (30) days from the date the Statement of Work is signed by [REDACTED] (the "Offer Period"). The Client must indicate its acceptance of the quoted Charges by signing and delivering the Statement of Work to [REDACTED] within the Offer Period. In the absence of written acceptance, the act of tendering the Product for storage or other Services by [REDACTED] within the Offer Period will constitute acceptance by the Client of the terms and conditions specified in the applicable Statement of Work.

(b) If a Product does not conform to the description on the applicable Statement of Work, or if a Product is tendered to [REDACTED] after the Offer Period, or if a Product is delivered to the Facility after the delivery date specified on the Statement of Work, [REDACTED] may refuse to accept such Product, in its sole discretion. If [REDACTED] accepts such Product, the parties shall negotiate in good faith for the charges for handling such Product consistent with the Charges outlined in the Statement of Work.

**Section 4. Risk of Loss.**

**Section 4.1 Risk of Loss.** The Client will bear the risk of any loss of or to any and all Products at all times, even when the Product is in the possession of [REDACTED] at the Facility or otherwise. [REDACTED] will not be liable for loss, delay or damage of any kind resulting from defects in containers or other storage media furnished by or on behalf of the Client. Release of a Product to a person in accordance with the instruction of a Client Representative will be considered delivery to the Client, and [REDACTED] responsibilities in respect of such Product will cease upon such delivery.

**Section 4.2 Limits on Liability.** Notwithstanding anything in this MSA or any Statement of Work to the contrary, [REDACTED] total liability to the Client (and all "Client Parties" as defined below) for damages arising out of or relating to this MSA, any Statement of Work, any attachment to this MSA or any other written agreement made pursuant to this MSA, regardless of the legal theory of the claim (and including any claim for indemnification under Section 6), will not exceed, and [REDACTED] will not be required to pay or reimburse the Client (or any other Client Parties) for any amount in excess of, the amount actually paid to [REDACTED] by Client under this MSA and the applicable Statements of Work with respect to the Products which are involved in the claim. The Client's claim for a return of such amounts paid will be the Client's exclusive remedy for any damages under this MSA and the applicable Statements of Work. Notwithstanding anything in this MSA, any Statement of Work, any attachment to this MSA or any other written agreement made pursuant to this MSA to the contrary, in the event of a loss of Product by Client in which the loss is adjudged to be directly attributable to [REDACTED] gross negligence and/or willful misconduct, [REDACTED] damages to Client will not exceed the limits of insurance coverages identified in Section 4.3 below. Notwithstanding anything in this MSA, any Statement of Work, any attachment to this MSA or any other written agreement made pursuant to this MSA to the contrary, under no circumstances will either party be entitled to (a) incidental, indirect, consequential or special damages or (b) punitive or exemplary damages arising in connection with the default or breach of either party in the performance of any of its obligations under this MSA or any Statement of Work. The parties expressly waive any right or claim to incidental, indirect, consequential, special, punitive or exemplary damages each may have or which may arise in the future in connection with any proceeding, claim or controversy directly or indirectly involving this MSA, any Statement of Work, or any of the Services. Damages to the Products shall be calculated on the basis of the replacement cost for the Products.

**Section 4.3 Insurance.** Products are not insured by [REDACTED] against loss or injury however caused.

(a) The Client agrees to obtain, at its own cost, insurance coverage for each Product, and to provide [REDACTED] with evidence of such insurance upon request. The Client agrees to maintain adequate commercial general liability limits, such limits will not be less than \$1,000,000 per occurrence and \$2,000,000 in aggregate. Client also agrees to list [REDACTED] as "additional insured" on its policies and to provide [REDACTED] with thirty (30) days written notice upon the cancellation of any insurance coverage.

(b) [REDACTED] will, at its own expense, during the term of this MSA maintain Insurance as follows: (i) Errors and Omissions insurance in an amount not less than \$3,000,000 of coverage; (ii) Comprehensive General Liability Insurance with a combined single limit for bodily injury and property damage liability of not less than \$2,000,000 with respect to any one occurrence; (iii) Warehousemen Legal Liability Insurance in an amount not less than \$2,500,000; and (iv) Worker's Compensation and Employers' Liability Insurance as required by the State of Indiana (carried under a co-employer contract).

**Section 4.4 Environmental Costs.** Where damage, loss or injury occurs to stored Products (other than as a result of a material breach by [REDACTED] of its obligations hereunder) which results in a release or a threatened release of Product constituents in, on or at the Facility, the Client will be responsible for the cost of removing and disposing of such Products and the cost of any environmental clean up and site remediation resulting from the damage, loss or injury to the Products.

**Section 4.5 Notice of Loss, Claim and Filing of Suit.** The Client will promptly give [REDACTED] notice of any loss of, or damage to, any Product that the Client believes was caused in whole or in part by [REDACTED]. Claims against [REDACTED] by the Client (and any other persons claiming by or through the Client) must be presented in writing to [REDACTED] within a reasonable time, and in no event longer than either sixty (60) days after delivery of the Product by [REDACTED] or sixty (60) days after the Client or the last known holder of a negotiable warehouse receipt is notified by [REDACTED] that damage, loss or injury to part or all of the

Products has occurred, whichever time is shorter. No action may be maintained by the Client or any third parties against [REDACTED] for damage, loss or injury to stored Products unless timely written notice has been given as provided in this Section 4.5 and unless such claim is commenced either within six (6) months after date of delivery by [REDACTED] or within six (6) months after the Client or the last known holder of a negotiable warehouse receipt is notified that damage, loss or injury to part or all of the Product has occurred, whichever time is shorter. When Products have not been delivered, notice may be given of known damage, loss or injury to the Products by mailing of a registered or certified letter to the Client or to the last known holder of a negotiable warehouse receipt.

**Section 4.6 Liability for Mis-Shipment.** If [REDACTED] negligently mis-ships any Product, [REDACTED] will pay the reasonable transportation charges incurred to return the mis-shipped Product to the Facility. [REDACTED] will have no liability for damages due to the consignee's acceptance or use of the Product (whether such Product be those of the Client or a third party) unless the Client establishes such loss occurred because of [REDACTED] failure to exercise the care required of [REDACTED] under Section 4.7 below.

**Section 4.7 Representations and Warranties.** [REDACTED] represents and warrants that (a) the Services will be performed in a professional manner by qualified, competent personnel and in accordance with all applicable laws and in accordance with generally accepted industry standards applicable to such Services; (b) [REDACTED] obligations under this MSA do not materially conflict with and will not cause [REDACTED] to be in breach of any other agreement to which it is bound, including, but not limited to, any lease for the Facility; and (c) [REDACTED] has or will obtain all necessary government or regulatory authority permits for storage and handling of the Product at the Facility.

**Section 4.8 Client Representations and Warranties.** Client represents and warrants that (a) Client's obligations under this MSA do not materially conflict with and will not cause Client to be in breach of any other agreement to which it is bound; (b) Client has or will obtain all necessary government or regulatory authority permits to own, ship, store and distribute the Product; and (c) any undersigned person signing on behalf of any Client that is a corporation, limited liability company, or other entity warrants and represents that (i) said person is fully empowered and duly authorized to execute and deliver this MSA for and on behalf of said Client; (ii) that said Client has full capacity, power and authority to enter into and carry out the obligations under this MSA; and (iii) that this MSA has been duly authorized, executed and delivered, and constitutes a legal, valid and binding obligation of the Client.

## **Section 5. Confidentiality; Disclosure.**

**Section 5.1 Confidentiality.** Each of [REDACTED] and the Client agree not to disclose any proprietary and/or confidential information, directly or indirectly, involving or concerning [REDACTED] or the Client (collectively, the "Confidential Information") which is furnished or disclosed by one party to the other party during the course of the performance of this MSA or a Statement of Work. Confidential Information, however, does not include information which (a) is generally available to the public other than through any act or omission by the non-disclosing party and is not subject to a confidentiality agreement with an obligation of secrecy to the disclosing party or a third party; (b) the receiving party can show was in its possession at the time of the disclosure and was not acquired directly or indirectly from the disclosing party; or (c) becomes available to the receiving party on a non-confidential basis from a source other than the disclosing party, provided it is not subject to a confidentiality agreement with an obligation of secrecy to the disclosing party or a third party. This obligation of confidentiality pursuant to the terms of this MSA will be in addition to (and will not supersede) any other confidentiality agreements entered into between [REDACTED] and the Client.

**Section 5.2 Ownership of Confidential Information.** Ownership of all right, title and interest in each party's Confidential Information will remain at all times with the disclosing party, and nothing in this MSA or a Statement of Work will give any right, title or interest in one party's Confidential Information to the other party.

**Section 5.3 Non-Disclosure and Non-Use of Confidential Information.** In furtherance of this MSA and in order to assure adequate protection of both parties against the wrongful use or disclosure of the Confidential Information, [REDACTED] and the Client agree to hold all Confidential Information in strict confidence. Each party acknowledges that any use or attempted use of any Confidential Information or any disclosure of the Confidential Information to any third party would constitute immediate and irreparable harm to the disclosing party and would be of significant benefit to any competitor of the disclosing party. Each party will be deemed to have a fiduciary duty to protect all Confidential Information from improper disclosure or use. Except with the prior written consent of the disclosing party or as required by law, each party agrees not to directly or indirectly disclose or use, or authorize any third party to disclose or use, any Confidential Information for (a) an indefinite duration, or (b) in the event that a court of competent jurisdiction determines that an indefinite period is unreasonable, five (5) years following the date hereof. The rights and remedies with respect thereto, whether legal or equitable, will remain in full force and effect during the period described in (a) or (b) above, as applicable.

**Section 6. Indemnification.**

**Section 6.1 Indemnification by Client.** The Client will indemnify, defend and hold harmless [REDACTED] and its affiliated entities, and all of [REDACTED] and such affiliates' respective shareholders, directors, managers, partners, members, officers, employees, subcontractors and agents (collectively, "[REDACTED] Parties") from and against any and all liabilities, obligations, penalties, claims, judgments, demands, actions, disbursements of any kind and nature, suits, losses, damages, costs and expenses (including, but not limited to, reasonable attorneys' fees) arising out of or in connection with property damage or personal injury (including, but not limited to, death) of third parties (collectively, "[REDACTED] Claims") which may be incurred by any of the [REDACTED] Parties by reason of or arising out of: (a) any person filing any lien against any property of [REDACTED] or any [REDACTED] Claims in which the person claims payment from [REDACTED] for services provided to the Client; (b) any injury (including, but not limited to, death) to any person arising from the services provided to Client pursuant to this MSA; (c) any personal injury (including, but not limited to, death) or property damage caused by the gross negligence or willful misconduct (acts or omissions) of any employees, agents or contractors of the Client; (d) any damages that [REDACTED] may incur as a direct or proximate result of the inaccuracy or incompleteness of the (i) packaging or labels or (ii) packaging or labeling information provided to [REDACTED] under Section 1.4; or (e) the material breach of any representations, warranties, covenants, agreements or obligations of the Client under this MSA.

**Section 6.2 Indemnification by [REDACTED]** will indemnify, defend and hold harmless the Client and its affiliated entities, and all of Client's and such affiliates' respective shareholders, directors, managers, partners, members, officers, employees, subcontractors and agents (collectively, "[REDACTED] Parties") from and against any and all liabilities, obligations, penalties, claims, judgments, demands, actions, disbursements of any kind and nature, suits, losses, damages, costs and expenses (including, but not limited to, reasonable attorneys' fees) arising out of or in connection with property damage or personal injury (including, but not limited to, death) of third parties which may be incurred by the Client Parties by reason of or arising out of: (a) any personal injury (including, but not limited to, death) or property damage caused by the gross negligence or willful misconduct (acts or omissions) of any employees, agents or contractors of [REDACTED] and (b) the material breach of any representations, warranties, covenants, agreements or obligations of [REDACTED] under this MSA.

**Section 6.3 Indemnification Procedure.** If any of the [REDACTED] Parties or the Client Parties intends to seek indemnification pursuant to this Section 6 (any such person seeking indemnification, an "Indemnitee"), the Indemnitee will promptly give notice to the party obligated to provide indemnification hereunder (any such person from whom indemnification is sought, an "Indemnitor") describing the claim in reasonable detail; provided, however, the failure to provide such notice will not affect the obligations of the Indemnitor unless and only to the extent the Indemnitor is actually prejudiced. Within thirty (30) days after receipt of such notice, the Indemnitor will give notice to the Indemnitee whether (i) the Indemnitor agrees to indemnify the Indemnitee and undertake, conduct and control, through counsel of its own choosing and at its own expense, the settlement or defense of such Claim, (ii) to reserve its rights to

Indemnify the Indemnitee and undertake, conduct and control, through counsel of its own choosing, the settlement or defense of such claim, or (iii) to affirmatively refuse to indemnify the Indemnitee. If the Indemnitor takes the actions described in subparagraph (i) or (ii) immediately above, the Indemnitee will cooperate with it in connection therewith; provided, however, that the Indemnitee may participate in such settlement or defense through counsel chosen by it; provided, further, however, that the fees and expenses of such counsel will be borne by the Indemnitee. The Indemnitor will not, without the written consent of the Indemnitee, settle or compromise any action if such settlement or consent will impose any obligations on the Indemnitee. If the Indemnitor fails to take the actions described in subparagraph (i) or (ii) immediately above, the Indemnitee will have the right to contest, settle or compromise any claim without the consent of the Indemnitor; provided, however, that in such case, the Indemnitee will not waive any right to indemnity therefor pursuant to this MSA. In all events, the Indemnitee and Indemnitor will cooperate fully in all aspects of any investigation, defense, pretrial activities, trial, compromise, settlement or discharge of any claim in respect of which indemnity is sought hereunder including, but not limited to, providing the other party with reasonable access to employees and officers (including as witnesses) and other information necessary for defense of the claim.

## **Section 7. Miscellaneous.**

**Section 7.1 Independent Status.** [REDACTED] status will be that of an independent contractor and not that of a servant, agent or employee of the Client. No employee of [REDACTED] will be regarded as an employee of the Client for any purpose, including, but not limited to, tax and insurance matters. The Client is not responsible for the payment of employer-related taxes which may be imposed with respect to any employees or agents of [REDACTED] including, but not limited to, FICA, unemployment taxes, state and federal income tax withholding payments.

**Section 7.2 Non-Raiding.** During the Term and for a period of one (1) year after the expiration or termination of the Term, both Client and [REDACTED] will not offer employment to, employ or enter into a services arrangement, as an independent contractor or otherwise, with any person employed by the other party during the Term that is or was directly or indirectly involved in the performance of any of the Services. The parties recognize that any breach of this Section 7.2 may cause irreparable injury to the goodwill and proprietary rights of either party, inadequately compensable in monetary damages. Accordingly, in addition to any other legal or equitable remedies that may be available to a party hereunder if the other party threatens to breach or breaches any provision of this Section 7.2, the parties agree that the non-breaching party will be entitled to seek and obtain immediate injunctive relief in the form of a temporary restraining order without notice, preliminary injunction or permanent injunction against the breaching party to enforce this provision and to enjoin any violation or threatened violation of this provision. Neither party will be required to post any bond or other security and will not be required to demonstrate any actual injury or damage to obtain injunctive relief from the courts.

**Section 7.3 Counterparts.** This MSA may be executed in one or more counterparts, including a facsimile counterpart with a printed acknowledgement of receipt received, or an e-mail counterpart with a printed acknowledgement of receipt received, each of which will be deemed to be an original, but all of which together will constitute one and the same MSA. Only one counterpart signed by the party against which enforceability is sought needs to be produced to evidence the existence of this MSA.

**Section 7.4 Severability.** If a court of competent jurisdiction makes a final determination that any term or provision of this MSA is invalid or unenforceable, and all rights to appeal the determination have been exhausted or the period of time during which any appeal of the determination may be perfected has been exhausted, the remaining terms and provisions will be unimpaired and the invalid or unenforceable term or provision will be deemed replaced by a term or provision that is valid and enforceable and that most closely approximates the intention of the parties with respect to the invalid or unenforceable term or provision, as evidenced by the remaining valid and enforceable terms and conditions of this MSA.

**Section 7.5 Assignment.** Neither party may assign or delegate this MSA without the express written consent of the other party, except that either party may assign, delegate or transfer this MSA and all of its respective rights and obligations under this MSA to any business entity that by sale, merger, consolidation or otherwise acquires all or substantially all of the assets of such party to which this MSA relates; provided that such assignee of the party shall be reasonably qualified to perform the Services hereunder and shall have assumed in writing all of the assignor's obligations under this MSA. Upon such assignment and novation as provided hereunder, any such successor entity will be deemed to be substituted for the assignor for all purposes of this MSA.

**Section 7.6 Modification.** This MSA may not be modified, amended, or waived in any manner except by an instrument in writing signed by all parties to this MSA.

**Section 7.7 Governing Law, Venue and Jurisdiction.** The validity, performance, enforcement, interpretation and any other aspect of this MSA will be governed by the laws of the State of Indiana, notwithstanding the choice of law provisions of the venue where the action is brought, where the violation occurred, or where the Client may be located. The Client agrees and consents to the exclusive jurisdiction of any state or federal court located in Indianapolis, Indiana, and waives any defense of lack of personal jurisdiction or improper venue to a claim brought in such court, except that [REDACTED] may elect, at its sole discretion, to litigate the action in the county or state where any breach by the Client occurred or where the Client can be found.

**Section 7.8 Headings.** The headings of the Sections of this MSA are inserted for convenience only and will not be deemed to constitute part of this MSA or to affect the construction of this MSA.

**Section 7.9 Force Majeure.** [REDACTED] will be relieved of its obligations under this MSA if, despite its reasonable effort to do so, it is unable to perform its duties hereunder as a result of acts of God, war, fires, terrorism, public enemies, seizure under legal process, strikes, lockouts, riots and civil commotions or any other reason beyond the control of [REDACTED].

**Section 7.10 Offsets.** The Client waives any existing and future claims and offsets against payments due [REDACTED] hereunder, and agrees to pay such amounts regardless of any offset or claim that may be asserted by the Client or on the Client's behalf.

**Section 7.11 Binding Effect.** This MSA will be binding upon and inure to the benefit of the parties hereto, and any permitted successors or assigns thereof.

**Section 7.12 Survival.** The rights and obligations set forth in Sections 3.1, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 5.1, 5.2, 5.3, and 7.1 through 7.15 (inclusive) will survive termination or expiration of this MSA.

**Section 7.13 Waiver.** The waiver by any party of compliance by any other party with any provision of this MSA will not operate or be construed as a waiver of any other provision of this MSA (whether or not similar), or a continuing waiver or a waiver of any subsequent breach by a party of a provision of this MSA. Performance by any party of any act not required of it under the terms and conditions of this MSA will not constitute a waiver of the limitations on its obligations under this MSA, and no performance will estop that party from asserting those limitations as to any further or future performance of its obligations. The Client acknowledges and agrees that every breach of this MSA or any similar agreement entered into between [REDACTED] and a third party is unique. Therefore, the failure of [REDACTED] to enforce the same, similar or different restriction in a similar agreement or to seek a different remedy or any other act or omission by [REDACTED] will not be construed as a waiver or estoppel to the enforcement of this MSA against the Client.

**Section 7.14 Notices.** All notices and other communications provided to any party hereto under this MSA will be in writing or by facsimile and addressed or delivered to such party at their addresses below. Any notice, if mailed and properly addressed with postage prepaid, will be deemed given three (3) business days after being sent; any notice, when transmitted by facsimile if sent during normal business hours of the recipient, will be deemed given on such day if receipt is confirmed (and if not so confirmed, then on the next business day); any notice, if delivered by hand or courier, will be deemed given when delivered to the address set forth thereon; any notice, when transmitted by confirmed electronic mail if sent during normal business hours of the recipient, will be deemed given on such day if receipt is confirmed (and if not so confirmed, then on the next business day), and addressed as follows:

(a) If to [REDACTED] to:  
[REDACTED]  
Telephone: (317) [REDACTED]

(b) If to the Client, to:  
[REDACTED]  
[REDACTED]  
Facsimile: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Attn: \_\_\_\_\_

Any party may, by giving written notice to the other parties, change the address to which notice will be sent.

**Section 7.15 Interpretation.** Both parties acknowledge and agree that the terms and conditions of this MSA (and any applicable Statement of Work) will supersede and control over any terms contained in any invoice or other documents exchanged or entered into between [REDACTED] and the Client that contradict or conflict with any term in this MSA or any SOW attached hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have signed this Master Service Agreement as of the day and year first above written by officials authorized to bind their respective organizations.

[REDACTED]  
[REDACTED]  
By: [REDACTED]

Date: \_\_\_\_\_

"CLIENT"

[CLIENT'S COMPANY NAME]

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**From:** Kernan, Scott@CDCR  
**To:** [REDACTED]@CDCR; Duffy, Brian@CDCR  
**Subject:** FW:  
**Date:** Thursday, September 30, 2010 1:35:10 PM

---

-----  
**From:** Cullen, Vincent@CDCR  
**Sent:** Thursday, September 30, 2010 1:34:57 PM  
**To:** Kernan, Scott@CDCR; Chaus, Anthony@CDCR  
**Cc:** McAullffe, John@CDCR  
**Subject:** RE:  
**Auto forwarded by a Rule**

Scott/Tony,

I personally called the agent while he was at Florence and provided the information. His point of contact is the Team Administrator, [REDACTED] It will be AW [REDACTED] and the Team Leader, [REDACTED] [REDACTED] who will meet the agent at the East Gate. [REDACTED] has multiple numbers to call.

**VINCENT S. CULLEN**  
**Warden (A)**  
**San Quentin State Prison**  
[REDACTED]

---

**From:** Kernan, Scott@CDCR  
**Sent:** Thursday, September 30, 2010 1:33 PM  
**To:** Chaus, Anthony@CDCR  
**Cc:** Cullen, Vincent@CDCR; McAullffe, John@CDCR  
**Subject:** RE:

Vince,

Can you provide information to Tony on who will be at prison to receive and store drug?

Scott

---

**From:** Chaus, Anthony@CDCR  
**Sent:** Thursday, September 30, 2010 12:58 PM  
**To:** Kernan, Scott@CDCR  
**Subject:** RE:

Scott,

Who will be the contact at SQ for my people to turn over the goods (probably around 2300 hrs or midnight)?

Tony

---

**From:** Kernan, Scott@CDCR  
**Sent:** Thursday, September 30, 2010 9:49 AM

**From:** Kernan, Scott@CDCR  
**To:** [REDACTED]@CDCR; Duffy, Brian@CDCR  
**Subject:** FW: Thiopental Injection  
**Date:** Thursday, September 30, 2010 3:54:36 PM  
**Importance:** High

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-----  
**From:** Alston, Steve M@CDCR  
**Sent:** Thursday, September 30, 2010 3:51:41 PM  
**To:** Kernan, Scott@CDCR  
**Cc:** McAuliffe, John@CDCR  
**Subject:** RE: Thiopental Injection  
**Importance:** High  
**Auto forwarded by a Rule**

Scott,

Here is our take on the issue:

- The attached MSA is a vendor provided agreement covering a number of services, which, based on your note below, we should not sign.
- Based on your note this appears to be a straight purchase and not a service contract. Consequently, if [REDACTED] is in fact the vendor of choice, we will need to see if they will accept a CDCR issued purchase order.
- If you want to pursue a non-competitive bid purchase, then a justification will need to be developed explaining why this cannot go out for bid.
- The dollar value of the purchase will dictate required approvals:
  - Less than \$5,000 can be approved by OBS without an NCB.
  - If the purchase is \$5-25,000 an NCB will be required, but will not require DGS review / approval.
  - If the purchase is in excess of \$25,000 then DGS review / approval will be required.

Hope this helps!

Steve

---

**From:** Kernan, Scott@CDCR  
**Sent:** Thursday, September 30, 2010 1:44 PM  
**To:** Alston, Steve M@CDCR  
**Cc:** McAuliffe, John@CDCR  
**Subject:** RE: Thiopental Injection

Steve,

Thanks for your help. Needs to be addressed confidentially.

I assume the 3 year noted in the agreement is standard. Fact is we are buying enough of the drugs to last until 2014 and would not think, but not impossible, that we would need any more during the three years. So one time transaction.

I'll have to get back to you on cost. Don't know.

The contractor would facilitate the one time purchase of the drug and we would take possession for storage at SQ. no need for them to store it.

Scott

---

**From:** Alston, Steve M@CDCR  
**Sent:** Thursday, September 30, 2010 11:21 AM  
**To:** Kernan, Scott@CDCR  
**Subject:** RE: Thlopental Injection

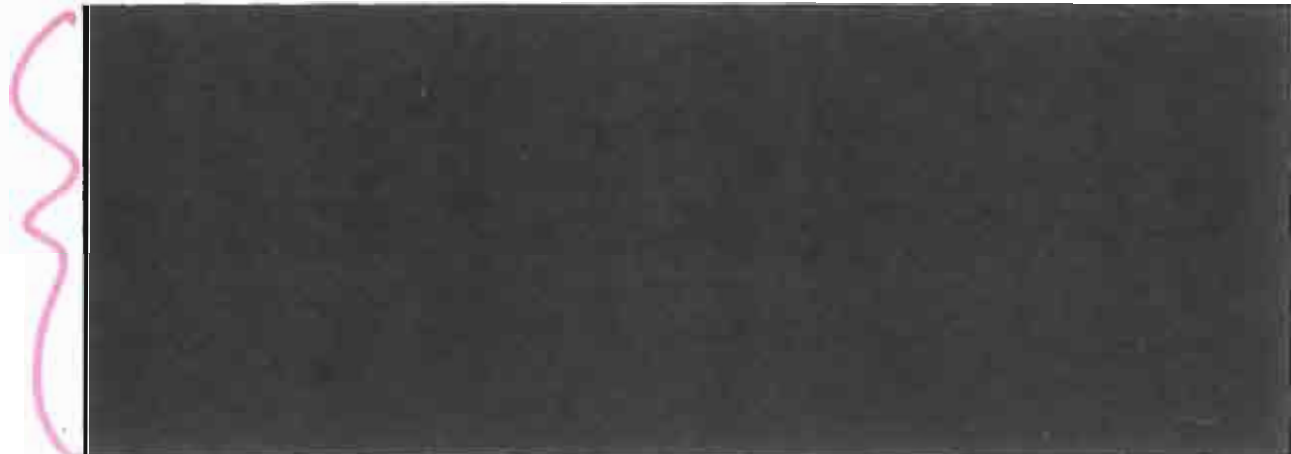
Scott,

Pulling our team together this afternoon to discuss in detail after which I will get back to you on this. A few questions for you:

1. Looks like a proposed three year agreement, right?
2. Estimated cost?
3. Will the proposed contractor store the inventory and ship it to CDCR on an as needed basis?

THANKS!

Steve



**From:** McAuliffe, John@CDCR

**Sent:** Thursday, September 30, 2010 9:20 AM  
**To:** Kernan, Scott@CDCR  
**Subject:** FW: Thlopental Injection

FYI  
John

---

**From:** [REDACTED]  
**Sent:** Thursday, September 30, 2010 9:15 AM  
**To:** McAuliffe, John@CDCR  
**Cc:** [REDACTED]  
**Subject:** RE: Thlopental Injection

Received.

I have attached our standard contract (MSA). A Statement of Work (SOW) will define exact work to be conducted.

Please review and redline any issues.

[REDACTED]  
[REDACTED]  
[REDACTED]  
P: 317- [REDACTED]  
[REDACTED]  
[REDACTED]

---

**From:** McAuliffe, John@CDCR [mailto:John.McAuliffe@cdcr.ca.gov]  
**Sent:** Thursday, September 30, 2010 12:05 PM  
**To:** [REDACTED]  
**Subject:** FW: Thlopental Injection  
**Importance:** High

[REDACTED]  
Thank you again here is the information and email.  
John McAuliffe

---

**From:** [REDACTED]  
**Sent:** Thursday, September 30, 2010 5:27 AM  
**To:** McAuliffe, John@CDCR  
**Subject:** Thlopental Injection  
**Importance:** High

30-09-10

Dear Mr. McAuliffe,

Thank you for your call and thank you for your interest in [REDACTED]

**From:** Kernan, Scott@CDCR  
**To:** [REDACTED]@CDCR; Duffv, Brian@CDCR  
**Subject:** FW: Thiopental Injection  
**Date:** Friday, October 01, 2010 1:44:41 PM

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-----  
**From:** McAuliffe, John@CDCR  
**Sent:** Friday, October 01, 2010 1:44:34 PM  
**To:** Kernan, Scott@CDCR  
**Subject:** Re: Thiopental Injection  
**Auto forwarded by a Rule**

Scott  
DEA

[REDACTED] 202 [REDACTED]  
John

---

**From:** Kernan, Scott@CDCR  
**To:** Alston, Steve M@CDCR  
**Cc:** McAuliffe, John@CDCR  
**Sent:** Thu Sep 30 16:47:46 2010  
**Subject:** RE: Thiopental Injection

Helps. Thanks. I'll let you know if in fact we have to go this way to procure the drugs.

Scott

---

**From:** Alston, Steve M@CDCR  
**Sent:** Thursday, September 30, 2010 3:52 PM  
**To:** Kernan, Scott@CDCR  
**Cc:** McAuliffe, John@CDCR  
**Subject:** RE: Thiopental Injection  
**Importance:** High

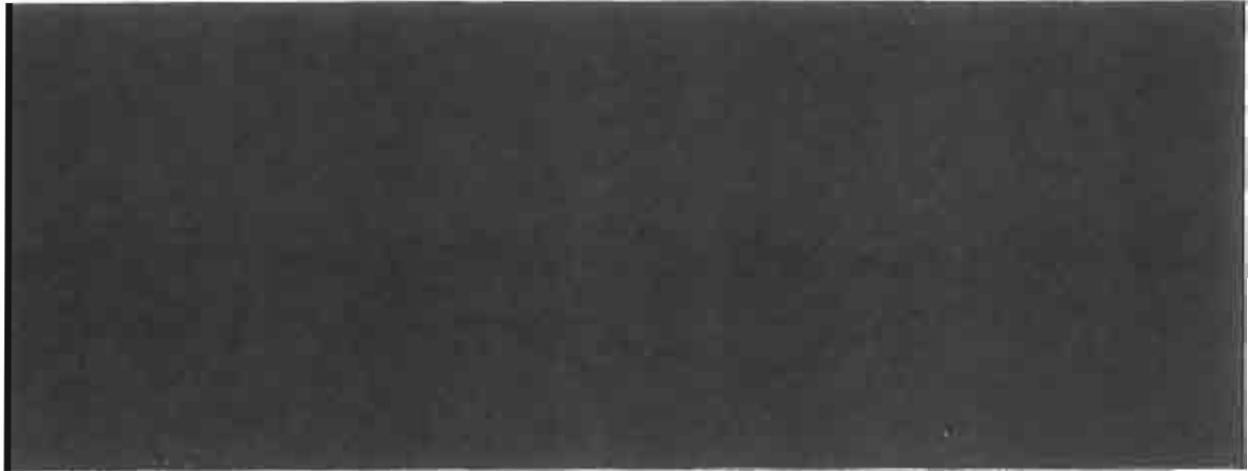
Scott,

Here is our take on the issue:

- The attached MSA is a vendor provided agreement covering a number of services, which, based on your note below, we should not sign.
- Based on your **note this** appears to be a straight purchase and not a service contract. Consequently, if [REDACTED] is in fact the vendor of choice, we will need to see if they will accept a CDCR issued purchase order.
- If you want to pursue a non-competitive bid purchase, then a justification will need to be developed explaining why this cannot go out for bid.

THANKS!

Steve



**From:** McAuliffe, John@CDCR  
**Sent:** Thursday, September 30, 2010 9:20 AM  
**To:** Kernan, Scott@CDCR  
**Subject:** FW: Thiopental Injection

FYI  
John

---

**From:** [REDACTED]  
**Sent:** Thursday, September 30, 2010 9:15 AM  
**To:** McAuliffe, John@CDCR  
**Cc:** [REDACTED]  
**Subject:** RE: Thiopental Injection

Received.

I have attached our standard contract (MSA). A Statement of Work (SOW) will define exact work to be conducted.

Please review and redline any issues.

[REDACTED]  
[REDACTED]  
[REDACTED]  
P: 317  
[REDACTED]  
[REDACTED]

**From:** Kernan, Scott@CDCR  
**To:** [REDACTED]@CDCR; Duffy, Brian@CDCR  
**Subject:** FW: [REDACTED]  
**Date:** Wednesday, October 06, 2010 8:50:14 AM

---

-----  
**From:** McAuliffe, John@CDCR  
**Sent:** Wednesday, October 06, 2010 8:50:07 AM  
**To:** Kernan, Scott@CDCR  
**Subject:** Fw: [REDACTED]  
**Auto forwarded by a Rule**

FYI

---

**From:** [REDACTED]@usdoj.gov>  
**To:** McAuliffe, John@CDCR  
**Sent:** Wed Oct 06 01:34:07 2010  
**Subject:** Re: [REDACTED]

Thank you. I'll make DEA's import/export unit aware of this matter.

[REDACTED]  
**Office of Diversion Control**

---

**From:** McAuliffe, John@CDCR <John.McAuliffe@cdcr.ca.gov>  
**To:** [REDACTED]  
**Cc:** Kernan, Scott@CDCR <Scott.Kernan@cdcr.ca.gov>  
**Sent:** Tue Oct 05 14:08:55 2010  
**Subject:** [REDACTED]

[REDACTED]  
Thank you for the list of companies listed with the DEA to Import Thiopental. We have contacted [REDACTED] who has initially agreed to procure the Thiopental from London. We gave [REDACTED] your email as a point of contact with DEA since you know exactly what we have been doing and to whom we have been in contact with in your Department. Again thank you for your help and assistance.  
John McAuliffe

From: Kernan, Scott@CDCR  
To: [REDACTED]@CDCR; Duffy, Brian@CDCR  
Subject: FW: [REDACTED]  
Date: Wednesday, October 06, 2010 9:32:25 AM

---

-----  
From: McAuliffe, John@CDCR  
Sent: Wednesday, October 06, 2010 9:31:44 AM  
To: Kernan, Scott@CDCR  
Subject: Re: [REDACTED]  
Auto forwarded by a Rule

I will call now and get a projection.

---

From: Kernan, Scott@CDCR  
To: McAuliffe, John@CDCR  
Sent: Wed Oct 06 09:29:29 2010  
Subject: Re: [REDACTED]

John  
Any word on how long we can expect this to take?

---

From: McAuliffe, John@CDCR  
To: Kernan, Scott@CDCR  
Sent: Wed Oct 06 08:50:07 2010  
Subject: Fw: [REDACTED]

FYI

---

From: [REDACTED]@usdoj.gov  
To: McAuliffe, John@CDCR  
Sent: Wed Oct 06 01:34:07 2010  
Subject: Re: [REDACTED]

Thank you. I'll make DEA's import/export unit aware of this matter.

[REDACTED]  
Office of Diversion Control

---

From: McAuliffe, John@CDCR <John.McAuliffe@cdcr.ca.gov>  
To: [REDACTED]  
Cc: Kernan, Scott@CDCR <Scott.Kernan@cdcr.ca.gov>  
Sent: Tue Oct 05 14:08:55 2010  
Subject: [REDACTED]

[REDACTED]  
Thank you for the list of companies listed with the DEA to import Thiopental. We have contacted



[REDACTED] who has initially agreed to procure the Thiopental from London. We gave [REDACTED] your email as a point of contact with DEA since you know exactly what we have been doing and to whom we have been in contact with in your Department. Again thank you for your help and assistance.  
John McAuliffe

**From:** Kernan, Scott@CDCR  
**To:** [REDACTED]@CDCR; Duffy, Brian@CDCR  
**Subject:** FW: ATTN: [REDACTED]  
**Date:** Wednesday, October 06, 2010 10:39:36 AM

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-----  
**From:** McAulliffe, John@CDCR  
**Sent:** Wednesday, October 06, 2010 10:38:53 AM  
**To:** [REDACTED]  
**Cc:** Kernan, Scott@CDCR  
**Subject:** [REDACTED]  
**Auto forwarded by a Rule**

Sir

I am forwarding this email to you for your record. CDCR would like to know if this process of obtaining the thioental (Duty, Broker, any additional fees to include [REDACTED] fees) could be billed to CDCR as one invoice? Additionally, can you give a possible estimate as to how long this process will take before we receive the thioental? Again, thank you for your assistance.  
John McAulliffe

---

**From:** [REDACTED]@usdoj.gov]  
**Sent:** Wednesday, October 06, 2010 1:34 AM  
**To:** McAulliffe, John@CDCR  
**Subject:** Re: [REDACTED]

Thank you. I'll make DEA's [REDACTED] aware of this matter.

[REDACTED]  
Office of Diversion Control

---

**From:** McAulliffe, John@CDCR <John.McAulliffe@cdcr.ca.gov>  
**To:** [REDACTED]  
**Cc:** Kernan, Scott@CDCR <Scott.Kernan@cdcr.ca.gov>  
**Sent:** Tue Oct 05 14:08:55 2010  
**Subject:** [REDACTED]

[REDACTED]  
Thank you for the list of companies listed with the DEA to import Thioental. We have contacted [REDACTED] who has initially agreed to procure the Thioental from London. We gave [REDACTED] your email as a point of contact with DEA since you know exactly what we have been doing and to whom we have been in contact with in your Department. Again thank you for your help and assistance.  
John McAulliffe

**From:** Kernan, Scott@CDCR  
**To:** McAuliffe, John@CDCR  
**Subject:** RE: Thiopental Injection  
**Date:** Thursday, September 30, 2010 2:19:00 PM

---

When he responds please get a name and number of superior who can approve an exemption for this specific purpose. I'll call or even get Matt or somebody in Gov's office to call. Thx

Scott

---

**From:** McAuliffe, John@CDCR  
**Sent:** Thursday, September 30, 2010 1:59 PM  
**To:** Kernan, Scott@CDCR  
**Subject:** Re: Thiopental Injection

No, DEA tracks drugs by Dr.'s DEA #. Since we can no longer use pharmacy at SQ (which would answer your question as yes) the importer would be [REDACTED] with final shipment into the USA identified as SQ. Dr.s can not import/export scheduled drugs unless DEA approves. That is why we asked the Dr's to get an additional DEA # with SQ address so that we could request DEA to approve the Dr's DEA # for import to SQ thus eliminating the need for [REDACTED]. I finally talked to DEA [REDACTED] who is in charge of import/export division and he acknowledged receiving our letter. Unfortunately he said all import approvals are above him? [REDACTED] is approving authority). [REDACTED] did say he would talk to his bosses and get back to me. That was 3 hours ago.  
John

---

**From:** Kernan, Scott@CDCR  
**To:** McAuliffe, John@CDCR  
**Sent:** Thu Sep 30 13:33:57 2010  
**Subject:** RE: Thiopental Injection

Does this mean that we can be identified as the importer using our doc's DEA number?

---

**From:** McAuliffe, John@CDCR  
**Sent:** Thursday, September 30, 2010 12:56 PM  
**To:** Kernan, Scott@CDCR  
**Subject:** FW: Thiopental Injection

Scott  
Please look at and advise and I will complete.....  
John

---

**From:** [REDACTED]  
**Sent:** Thursday, September 30, 2010 12:50 PM  
**To:** McAuliffe, John@CDCR  
**Subject:** RE: Thiopental Injection

I need to know the entity that will serve as the actual importer...

- Name of entity (California Department of Corrections)
- Address of entity
- DEA Registration #

**From:** [Kernan.Scott@CDCR](mailto:Kernan.Scott@CDCR)  
**To:** [Alston.Steve.M@CDCR](mailto:Alston.Steve.M@CDCR)  
**Cc:** [McAuliffe.John@CDCR](mailto:McAuliffe.John@CDCR)  
**Subject:** RE: Thiopental Injection  
**Date:** Thursday, September 30, 2010 1:43:00 PM

---

Steve,

Thanks for your help. Needs to be addressed confidentially.

I assume the 3 year noted in the agreement is standard. Fact is we are buying enough of the drugs to last until 2014 and would not think, but not impossible, that we would need any more during the three years. So one time transaction.

I'll have to get back to you on cost. Don't know.

The contractor would facilitate the one time purchase of the drug and we would take possession for storage at SQ. no need for them to store it.

Scott

---

**From:** Alston, Steve M@CDCR  
**Sent:** Thursday, September 30, 2010 11:21 AM  
**To:** Kernan, Scott@CDCR  
**Subject:** RE: Thiopental Injection

Scott,

Pulling our team together this afternoon to discuss in detail after which I will get back to you on this. A few questions for you:

1. Looks like a proposed three year agreement, right?
2. Estimated cost?
3. Will the proposed contractor store the inventory and ship it to CDCR on an as needed basis?

THANKS!

Steve



[REDACTED]

**From:** McAuliffe, John@CDCR  
**Sent:** Thursday, September 30, 2010 9:20 AM  
**To:** Kernan, Scott@CDCR  
**Subject:** FW: Thiopental Injection

FYI  
John

---

**Sent:** Thursday, September 30, 2010 9:15 AM  
**To:** McAuliffe, John@CDCR  
**Cc:** Tim Mitchell  
**Subject:** RE: Thiopental Injection

Received.

I have attached our standard contract (MSA). A Statement of Work (SOW) will define exact work to be conducted.

Please review and redline any issues.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

---

**From:** McAuliffe, John@CDCR [mailto:John.McAuliffe@cdcr.ca.gov]  
**Sent:** Thursday, September 30, 2010 12:05 PM  
**Subject:** FW: Thiopental Injection  
**Importance:** High

[REDACTED]

Thank you again here is the information and email.  
John McAuliffe

---

**From:** [REDACTED]  
**Sent:** Thursday, September 30, 2010 5:27 AM

**To:** McAuliffe, John@CDCR  
**Subject:** Thiopental Injection  
**Importance:** High

30-09-10

Dear Mr. McAuliffe,

Thank you for your call and thank you for your interest in [REDACTED]

I would be happy to supply you:

Thiopental Injection , powder for reconstitution, thiopental sodium, 500-mg vial packs of 25's £196.75 (pounds sterling)

The current expiry date is February 2014.

POTASSIUM CHLORIDE 1.5GM 10ML INJ. PACKS OF 10 £15.55

Expiry date: 01/13

Pancuronium Injection, pancuronium bromide 2 mg/mL, 2-mL amp packs of 10's

£58.73

Expiry date: 11/11

If you could supply me with the following information, I can produce a proforma invoice:

Invoice address

Delivery address, including contact person and contact person phone number

I will dispatch the goods to you by FedEx,

FedEx delivery charges is separate item.

In order to get the product easier through US customs, I think it would be a goods idea for you to write a letter in the department letterhead, attention of US custom and let them know why you need this product. I would include this letter in your shipment.

Please also email or fax me a copy of your DEA license, to include it in your shipment.

Please let me know if you need further information.

Many thanks,

Kind regards

[REDACTED]  
Tel: 44  
[REDACTED]

**From:** Kernan, Scott@CDCR  
**To:** [REDACTED]  
**Subject:** FW: Execution Protocol Drugs  
**Date:** Wednesday, September 29, 2010 8:19:00 AM

---

[REDACTED]

Please check out this email string. Sounds like Arizona has found a way to get it via customs. I am calling AZ this morning and see if they will lend us enough for one execution and try to contact the vendor and see if they can get us additional quantity. What do you think?

Scott

-----Original Message-----

**From:** McAuliffe, John@CDCR  
**Sent:** Tuesday, September 28, 2010 6:21 PM  
**To:** Kernan, Scott@CDCR  
**Subject:** Fw: Execution Protocol Drugs

Fyi

----- Original Message -----

**From:** CHARLES FLANAGAN [REDACTED]@azcorrections.gov>  
**To:** McAuliffe, John@CDCR  
**Cc:** THERESE SCHROEDER [REDACTED]@azcorrections.gov>  
**Sent:** Tue Sep 28 17:38:36 2010  
**Subject:** Execution Protocol Drugs

**John:**

As we discussed on the phone today, we have followed the lead of Arkansas and purchased the drugs we need from a company in London. Frankly, there was no possibility of getting the Thiopental Sodium/Sodium Pentothal from any source in the U.S., to include from any of the departments of corrections in other states that use the same 3-drug protocol as us.

The name of the company and the person with whom we arranged the purchase is:

[REDACTED]

011-44-

[REDACTED]

We were able to purchase enough of each drug in our protocol for each of the upcoming executions:

Sodium Pentothal as Thiopental Sodium (could not acquire in U.S.)  
Pancuronium Bromide (could not acquire enough in the U.S.)  
Potassium Chloride (could get in the U.S., but not necessarily in time).

We understand that Arkansas has still not received their drugs and that this may be due to the process of getting the shipment through Customs and the FDA. We have followed the following process to try and expedite the shipment through Customs and the FDA to us:

- We hired our own customs broker, locally, and mandated that the sender, who actually hires Fed Ex to transport, fills out the paperwork to ensure Fed Ex uses our broker, not theirs.

From: Kernan, Scott@CDCR  
To: [REDACTED]  
Subject: Re: sodium thiopental  
Date: Wednesday, September 29, 2010 6:46:06 AM

---

[REDACTED]  
Thanks. Very unfortunate. Sure appreciate your continued efforts. Have you heard that Hospria is Issuing a letter indicating they will not manufacture the sodium for executions? We heard a rumor yesterday to that fact. We also think we may have a line from England and a method to bring it into the country. Still working all angles on our side.  
Thanks and all the best. Please let me know if something comes up.  
Scott

---

From: [REDACTED]  
To: Kernan, Scott@CDCR  
Cc: [REDACTED]  
Sent: Wed Sep 29 06:05:02 2010  
Subject: sodium thiopental

*Scott:*

*Today's article in the Texas prison system's back yard. It is unfortunate that Texas would not share some of it's "well stocked" supply to help sister states but down the road they may need help in some other way and this position does not help their image. Nevertheless, in the prison business things are always changing and Texas is no exception. Sorry we were not able to help more.*

*Best regards,*

## **The Huntsville Item, Huntsville, TX**

*September 29, 2010*

### **Texas well stocked with lethal injection drugs**

**From Staff and Wire Reports**

HUNTSVILLE — Despite a nationwide shortage of one of a trio of drugs used in the lethal injection of condemned inmates, Texas is well stocked with the drug, sodium thiopental, according to Texas prison officials in Huntsville.

Some executions in the U.S. have been put on hold because of a shortage of the drug — an anesthetic that in Texas renders the condemned inmate unconscious before other drugs in the lethal cocktail are administered.

“Texas has an ample supply of the drug in reserve so we have not been affected by the



**From:** [Kernan.Scott@CDCR](mailto:Kernan.Scott@CDCR)  
**To:** [McAuliffe.John@CDCR](mailto:McAuliffe.John@CDCR)  
**Subject:** Re: Morales v. Cate: Order Following Remand  
**Date:** Tuesday, September 28, 2010 7:25:34 PM

---

Yes. Apealling to supreme tomorrow.

----- Original Message -----

**From:** McAuliffe, John@CDCR  
**To:** Kernan, Scott@CDCR  
**Sent:** Tue Sep 28 19:21:58 2010  
**Subject:** Fw: Morales v. Cate: Order Following Remand

Scott  
Fogel has granted a stay. I think it all revolves around our lack of Sodium Thiopental.  
John



From: Kernan, Scott@CDCR  
To: [REDACTED]@CDCR; Duffv, Brian@CDCR  
Subject: Fw: Execution Protocol Drugs  
Date: Tuesday, September 28, 2010 6:25:04 PM

---

This is very confidential. Please do not forward. Put under nose first thing. Thx  
Scott

----- Original Message -----

From: McAuliffe, John@CDCR  
To: Kernan, Scott@CDCR  
Sent: Tue Sep 28 18:21:20 2010  
Subject: Fw: Execution Protocol Drugs

Fyi

----- Original Message -----

From: CHARLES FLANAGAN [REDACTED]@azcorrections.gov>  
To: McAuliffe, John@CDCR  
Cc: THERESE SCHROEDER [REDACTED]@azcorrections.gov>  
Sent: Tue Sep 28 17:38:36 2010  
Subject: Execution Protocol Drugs

John:

As we discussed on the phone today, we have followed the lead of Arkansas and purchased the drugs we need from a company in London. Frankly, there was no possibility of getting the Thiopental Sodium/Sodium Pentothal from any source in the U.S., to include from any of the departments of corrections in other states that use the same 3-drug protocol as us.

The name of the company and the person with whom we arranged the purchase is:

[REDACTED]  
011-44 [REDACTED]  
[REDACTED]

We were able to purchase enough of each drug in our protocol for each of the upcoming executions:

Sodium Pentothal as Thiopental Sodium (could not acquire in U.S.)  
Pancuronium Bromide (could not acquire enough in the U.S.)  
Potassium Chloride (could get in the U.S., but not necessarily in time).

We understand that Arkansas has still not received their drugs and that this may be due to the process of getting the shipment through Customs and the FDA. We have followed the following process to try and expedite the shipment through Customs and the FDA to us:

- We hired our own customs broker, locally, and mandated that the sender, who actually hires Fed Ex to transport, fills out the paperwork to ensure Fed Ex uses our broker, not theirs.

- We ensured that Fed Ex knew, and we documented clearly on all forms, that the "Port of Unladen" be Memphis, TN (the Fed Ex hub for all overseas transports), and the "Port of Entry" be Phoenix, AZ. This gives absolute jurisdiction to the Customs and FDA to the local people and not to those offices in Memphis.



----- Original Message -----

From: McAuliffe, John@CDCR  
To: Kernan, Scott@CDCR  
Sent: Tue Sep 28 08:35:23 2010  
Subject: Re: Hospira Sodium Thlopental

This was on news last night. I have not seen nor heard if letter has been sent out yet.  
John

----- Original Message -----

From: Kernan, Scott@CDCR  
To: McAuliffe, John@CDCR  
Sent: Tue Sep 28 08:09:58 2010  
Subject: Re: Hospira Sodium Thlopental

Is this just rumor or have we seen letter?

----- Original Message -----

From: McAuliffe, John@CDCR  
To: Kernan, Scott@CDCR  
Cc: Rice, Benjamin@CDCR; Slavin, Bruce@CDCR; McCleese, Kelly@CDCR; Cullen, Vincent@CDCR  
Sent: Tue Sep 28 08:02:22 2010  
Subject: Hospira Sodium Thlopental

Scott

Hospira the manufacturer of Sodium Thlopental yesterday announced that they are going to send out letters to all 35 states that have lethal injection stating "they do not want their drug (Sodium Thlopental) used for executions.". Not sure how this will effect our current and/or future orders? I will call Hospira directly after this execution.

John

**From:** Kernan.Scott@CDCR  
**To:** [REDACTED]  
**Subject:** RE: Call Placed  
**Date:** Wednesday, September 22, 2010 8:14:00 AM

---

[REDACTED]

Thanks. We are getting ready for Tuesday night execution now. Judge indicated yesterday he wanted information on one drug execution. Same judge that just made us go through regulation process for three drugs? Who knows, but its heating up here in California. I'll stay in touch.

Scott

---

**From:** [REDACTED]  
**Sent:** Wednesday, September 22, 2010 8:06 AM  
**To:** Kernan, Scott@CDCR  
**Cc:** [REDACTED]  
**Subject:** Call Placed

Good Morning Scott:

Per Matt's request [REDACTED] has placed a call to Governor Perry's office and discussed the need for having a commitment to ship, upon request, a dose of sodium pentothal from TDCJ to CDCR. Governor Perry is traveling today, but [REDACTED] talked with the Governor's assistant, who in turn, will get in touch with Governor Perry and get back to [REDACTED] sometime today or early tomorrow.

I will keep you advised.

[REDACTED]

From: Kernan, Scott@CDCR  
To: [REDACTED]  
Cc: [REDACTED]; Cate, Matt@CDCR; Rice, Benjamin@CDCR  
Subject: RE: Ca Drugs  
Date: Monday, September 20, 2010 6:32:00 AM

---

[REDACTED]

Thank you very much. We sure appreciate all your efforts. I'll let you know how Matt wants to go forward with Texas after talks with Governor. Let you know hopefully today.

Scott

---

From: [REDACTED]  
Sent: Friday, September 17, 2010 3:02 PM  
To: Kernan, Scott@CDCR  
Cc: [REDACTED]  
Subject: Fw: Ca Drugs

Scott:

One of the lessons of life is that bad news doesn't get better with time. Unfortunately, despite numerous calls and contacts **yesterday and today**, we have been unable to secure any additional supplies of sodium pentothal at this time.

Scott, we will continue to search but as I promised you and Matt, I wanted to give you a definitive answer before Monday.

While we continue to look for an existing supply, [REDACTED] remains willing to call Governor Perry and ask for his assistance in putting a string on TDCI's supply should you need it before new production resumes.

Please let us know how to proceed.

[REDACTED]

----- Original Message -----

From: [REDACTED]  
Cc: [REDACTED]  
Sent: Thursday, September 16, 2010 5:09 PM  
Subject: Re: Ca Drugs

[REDACTED]

We have contacted 80-90 hospitals over the past few days and none of them have a drop of Pentothal. Most have been out for quite some time. I still have folks in the industry keeping an

eye out and I will let you know if I hear of any leads.

thanks,

[REDACTED]  
p. 806  
[REDACTED]

[REDACTED] wrote:

Can you get us an official update availability production timelines? Also [REDACTED] --any luck on getting that other supply of sodium pentothal?

[REDACTED]

----- Original Message -----

From: Kernaan, Scott@CDCR

To: [REDACTED]

Sent: Wednesday, September 08, 2010 5:38 PM

[REDACTED]

We are getting some press inquiries on the Lethal Injection drugs. Hearing that availability may be pushed deep into 2011. Have you heard anything like that? Any luck on finding us anything or date certain when manufacturing will start back up and be available. Sorry to bother you and as always, thanks for your help.

Scott

**From:** Kernan, Scott@CDCR  
**To:** Cate, Matt@CDCR; Rice, Benjamin@CDCR  
**Subject:** Fw: Purchase Order # [REDACTED]  
**Date:** Wednesday, August 25, 2010 7:17:18 AM

---

Fyi  
Scott

---

**From:** [REDACTED]  
**To:** McAuliffe, John@CDCR; [REDACTED]  
**Cc:** Kernan, Scott@CDCR; Rice, Benjamin@CDCR; Cullen, Vincent@CDCR; [REDACTED]@CDCR  
**Sent:** Wed Aug 25 07:13:36 2010  
**Subject:** [REDACTED]

John,

There are 3 packages arriving today:

Tracking #	Carrier	Comments
[REDACTED] medication(Pancuronium)	UPS	one of the UPS packages contains some refrigerated
[REDACTED] Sodium and Potassium Chloride	UPS	the other UPS package contains some Thiopental
[REDACTED] refrigerated medication(Pancuronium)	FEDEX	this is a large package containing the rest of the

I am expecting the rest of the Potassium Chloride to arrive and ship from here today. I'll keep you informed on the rest of the Thiopental...we're still waiting on the manufacturer.

Thanks,

[REDACTED]

---

**From:** McAuliffe, John@CDCR [mailto:John.McAuliffe@cdcr.ca.gov]  
**Sent:** Tuesday, August 24, 2010 2:45 PM  
**To:** [REDACTED]  
**Cc:** Kernan, Scott@CDCR; Rice, Benjamin@CDCR; Cullen, Vincent@CDCR; [REDACTED]@CDCR  
**Subject:** [REDACTED]

[REDACTED]  
Please go ahead and ship the 8 grams of Thiopental.....Thank you...  
John McAuliffe

---

**From:** [REDACTED]  
**Sent:** Tuesday, August 24, 2010 12:19 PM  
**To:** McAuliffe, John@CDCR  
**Subject:** [REDACTED]

John,

We have received 8 grams of Thiopental Sodium. It expires Oct 1, 2010.

Is this ok?

---

**From:** McAuliffe, John@CDCR [mailto:John.McAuliffe@cdcr.ca.gov]  
**Sent:** Tuesday, August 24, 2010 12:09 PM  
**To:** [REDACTED]  
**Subject:** RE: [REDACTED]

Great news! Hope some of the product is Sodium Thiopental.....Ship to;

[REDACTED]  
Neumiller Infirmary Pharmacy  
California State Prison, San Quentin  
San Quentin, California 94964  
ATTN: Warden Vincent Cullen

Thanks  
John McAuliffe

---

**From:** [REDACTED]  
**Sent:** Tuesday, August 24, 2010 9:27 AM  
**To:** McAuliffe, John@CDCR  
**Subject:** [REDACTED]

John,

We have received some of the product and can ship today.

Please let me know what shipping address to use. I will also email you what is being shipped today.

Thanks,

---

**From:** McAuliffe, John@CDCR [mailto:John.McAuliffe@cdcr.ca.gov]  
**Sent:** Thursday, August 19, 2010 4:16 PM  
**To:** [REDACTED]  
**Subject:** Purchase Order # 2010080503

Mr. [REDACTED]  
Just would like to follow up on the status of the order. Mainly I would like to know if you have any status as to when or if you have been contacted as to a possible date the order can be filled. Thanks  
In advance  
John McAuliffe  
[REDACTED]



From: Kernan, Scott@CDOR  
To: [REDACTED]  
Subject: Re: Drug Order  
Date: Friday, August 06, 2010 12:11:47 PM

---

Can't tell you how much I, Matt and Governor appreciate it. Have a great weekend  
Scott

---

From: [REDACTED]  
To: Kernan, Scott@CDOR; McAuliffe, John@CDOR  
Cc: [REDACTED]  
Sent: Fri Aug 06 12:01:21 2010  
Subject: Drug Order

**Scott/John:**

Your order has been placed and John will get a call from [REDACTED] on Monday should there be any questions. Please be assured that partial shipments will be sent as soon as received.

We continue to do a worldwide search for Sodium Thiopental

[REDACTED]

*From* [REDACTED]

All products have been ordered. The Potassium Chloride is being shipped to us now (should arrive in Nashville next week). The Pancuronium and Pentothal will ship when they are available.

Purchase Order # [REDACTED] dtd 8/5/2010  
Hospira Confirmation # [REDACTED]

Contact:

[REDACTED]  
Phone 615-[REDACTED]

**From:** Kernan, Scott@CDCR  
**To:** [REDACTED]  
**Cc:** McAuliffe, John@CDCR  
**Subject:** RE: Per Our Conversation  
**Date:** Wednesday, August 04, 2010 3:22:00 PM

---

[REDACTED]

Thanks again for all your help on this. Below is the information you requested.

The ordering doctor is [REDACTED]

His DEA number is [REDACTED]

The shipment address is

[REDACTED]  
[REDACTED]  
California State Prison, San Quentin  
San Quentin, California, 94964

The quantities we discussed:

126 grams of Sodium Thiopental  
3,150 Milligrams Pancuronium Bromide  
12,600 milliequivalents of Potassium Chloride

Billing information will be handled through my office.

Scott Kernan  
Undersecretary  
1515 S Street, Suite 502S  
Sacramento, CA 95811-7243  
[REDACTED]

My staff expert and direct point on this issue is John McAuliffe – telephone – Office (916) 255-2576 – [REDACTED]

[REDACTED], again thanks so much. Governor's Office very interested in progress so if any developments please let me know. I assume that you will be able to confirm with the orders are made?

Scott

---

**From:** [REDACTED]  
**Sent:** Wednesday, August 04, 2010 11:50 AM  
**To:** Kernan, Scott@CDCR  
**Subject:** Per Our Conversation

Hi Scott:

Once I receive your provider's name, shipping address and DEA Number, I will have our contact [redacted] to call (he or she) or whoever you designate to finalize the order.

[redacted]

(936) [redacted]

p.s. This is my official e-mail address. Inadvertently sent previous e-mail on my person e-mail (sorry)

**From:** Kernan, Scott@CDCR  
**To:** Cate, Matt@CDCR; Rice, Benjamin@CDCR  
**Subject:** FW: Per Our Conversation  
**Date:** Wednesday, August 04, 2010 12:22:00 PM  
**Attachments:** California Drugs August 2010.xls

---

Talked with [REDACTED] He is still beating bush for sodium Thiopental. He is placing the order for all three drugs, probably even get done today. His update was:

Sodium Thiopental – No national provider and none anticipated in 2010. Found international provider. Looking for way to import and method to validate correct mix. Sounded positive

Pancuronium Bromide – Hospira does provide and expect availability August/September.

Potassium Chloride – Available no problem.

I am sending him shipping information and billing data. We are going to ship directly to SQ pharmacy for our teams pick up and storage consistent with Reg. I could run into problem with Receiver using the Pharmacy, but think I can work through it [REDACTED] is using [REDACTED] DEA number. The bill will come directly to me and I'll discretely handle through our procurement.

We are still pursuing a DEA exemption and trying to find our own importer just so if this avenue does not work out we have somewhere else to go.

We have contacted all states and Feds for drug with no luck. All states are in the same boat. Virginia did say they have a quantity of expired Thiopental but would require FDA waiver of expiration date. They ran into brick wall when they tried this with the FDA.

I will send you behind this email a timeline prepared by staff of all of our efforts. Let me know if you need anything else.

Scott

---

**From:** [REDACTED]  
**Sent:** Wednesday, August 04, 2010 11:50 AM  
**To:** Kernan, Scott@CDCR  
**Subject:** Per Our Conversation

Hi Scott:

Once I receive your provider's name, shipping address and DEA Number, I will have our contact [REDACTED] to call (he or she) or whoever you designate to finalize the order.

[REDACTED]  
(936) [REDACTED]

p.s. This is my official e-mail address. Inadvertently sent previous e-mail on my personal e-mail (sorry)

Product	Status	Cost
Pavulon Bromide(25x10ml)	manufacturer backorder until mid August	\$21.25
Pentothal 400mg 25 doses	manufacturer backorder until mid October	\$448.25
Pentothal 500mg 25 doses	manufacturer backorder until mid October	\$477.75
Pentothal 1000mg 25 doses	manufacturer backorder until mid October	\$1,386.00
Potassium Chloride 2MEQ	available 25x30ml	\$22.50
Potassium Chloride 10MEQ	available 25x5ml	\$11.00
Potassium Chloride 20MEQ	available 25x10ml	\$9.50
Potassium Chloride 30MEQ	available 25x15ml	\$12.50
Potassium Chloride 40MEQ	available 25x20ml	\$7.50

All costs stated above are for a pack of 25 vials or syringes.

FDA has some information on the shortage for Pavulon and Pentothal...scroll down the

I searched for a reason for TEVA's recall and only found this explanation from several s

#### REASON

Impurities/Degradation Products: These products are being recalled because the:

<http://www.fda.gov/Drugs/DrugSafety/DrugShortages/ucm050792.htm>

Let me know if you need anything else. Thanks!

Phone 615

<b>Storage</b>
stable up to 6 months at room temp(65-72), recommend refrigerated(36-46)
Reconstituted solutions remain stable for 3 days at room temperature, 7 days if refrigerated. Product can be stored at room temperature until mixed.
Pentothal is a controlled substance, Schedule III.
Store at room temp until mixed. Use w/in 24hrs after/if mixed.

list on this website, drugs are listed alphabetically. It looks like the Pavulon shortage is due to TEVA withdrawal sources:

they do not meet specification for related substances.

**From:** Duffy, Brian@CDCR  
**To:** McAuliffe, John@CDCR  
**Subject:** [REDACTED]  
**Date:** Friday, August 20, 2010 10:43:25 AM

---

John,

Any luck with calling hospitals? Anything I can do to help?

Brian

---

**From:** Kernan, Scott@CDCR  
**Sent:** Friday, August 20, 2010 9:47 AM  
**To:** [REDACTED]; Duffy, Brian@CDCR  
**Subject:** [REDACTED]

---

**From:** McAuliffe, John@CDCR  
**Sent:** Friday, August 20, 2010 9:46:50 AM  
**To:** Kernan, Scott@CDCR  
**Subject:** [REDACTED]  
**Auto forwarded by a Rule**

Scott

See email. I called yesterday and said we needed a date. Also told [REDACTED] if he got a hold of any ship it to us immediately.

John

---

**From:** [REDACTED]  
**To:** McAuliffe, John@CDCR  
**Sent:** Fri Aug 20 06:19:22 2010  
**Subject:** [REDACTED]

John, I received an update on your order this morning...

-Pentothal is expected to be available again sometime in the 4<sup>th</sup> quarter 2010(Oct-Dec 2010). This will ship when it is available.

-Pancuronium is expected to be available again by the end of August 2010. This will ship when it is available also.

-Potassium Chloride is on 'Allocation'. I am not sure what this means for us, I am waiting for a clearer answer on this. In the meantime, I am trying to pursue a different source for this product. I could have this as early as next week. I will let you know if/when I do get it.

I'll forward any information as I get it. Also, I will let you know at least weekly even if there are no new updates.

Thanks,

615-

---

**From:** McAuliffe, John@CDCR [mailto:John.McAuliffe@cdcr.ca.gov]  
**Sent:** Thursday, August 19, 2010 4:16 PM  
**To:** [REDACTED]  
**Subject:** [REDACTED]

[REDACTED]  
Just would like to follow up on the status of the order. Mainly I would like to know if you have any status as to when or if you have been contacted as to a possible date the order can be filled. Thanks in advance  
John McAuliffe  
[REDACTED]



**From:** Duffy, Brian@CDCR  
**To:** Kernan, Scott@CDCR  
**Subject:** FW: [REDACTED]  
**Date:** Tuesday, August 24, 2010 12:55:22 PM

---

Also, first scheduled execution is on Sept. 29. 2 days before it expires.

---

**From:** Kernan, Scott@CDCR  
**Sent:** Tuesday, August 24, 2010 12:53 PM  
**To:** [REDACTED]@CDCR; Duffy, Brian@CDCR  
**Subject:** FW: Purchase Order # [REDACTED]

---

**From:** Duffy, Brian@CDCR  
**Sent:** Tuesday, August 24, 2010 12:53:24 PM  
**To:** Kernan, Scott@CDCR  
**Subject:** RE: Purchase Order # [REDACTED]  
**Auto forwarded by a Rule**

Just looked it up. Need 21 grams per event. Only receiving 8 grams in this shipment.

---

**From:** Kernan, Scott@CDCR  
**Sent:** Tuesday, August 24, 2010 12:45 PM  
**To:** [REDACTED]@CDCR; Duffy, Brian@CDCR  
**Subject:** FW: Purchase Order # 2010080503

---

**From:** McAuliffe, John@CDCR  
**Sent:** Tuesday, August 24, 2010 12:45:01 PM  
[REDACTED]  
**Cc:** Kernan, Scott@CDCR; Rice, Benjamin@CDCR; Cullen, Vincent@CDCR;  
[REDACTED]@CDCR  
**Subject:** RE: [REDACTED]  
**Auto forwarded by a Rule**

[REDACTED]  
Please go ahead and ship the 8 grams of Thiopental.....Thank you...  
John McAuliffe

---

**From:** [REDACTED]  
**Sent:** Tuesday, August 24, 2010 12:19 PM  
**To:** McAuliffe, John@CDCR  
**Subject:** RE: [REDACTED]

John,

**From:** Duffy, Brian@CDCR  
**To:** Kernan, Scott@CDCR  
**Subject:** [REDACTED]  
**Date:** Friday, August 20, 2010 11:07:39 AM

---

FYI

---

**From:** McAuliffe, John@CDCR  
**Sent:** Friday, August 20, 2010 11:04 AM  
**To:** Duffy, Brian@CDCR  
**Subject:** [REDACTED]

Going down the list..... Same response so far with 23 called....Who are you? Why are you asking?  
And we do not give out that information to the public!  
John

---

**From:** Duffy, Brian@CDCR [mailto:Brian.Duffy@cdcr.ca.gov]  
**Sent:** Friday, August 20, 2010 10:43 AM  
**To:** McAuliffe, John@CDCR  
**Subject:** RE: [REDACTED]

John,

Any luck with calling hospitals? Anything I can do to help?

Brian

---

**From:** Kernan, Scott@CDCR  
**Sent:** Friday, August 20, 2010 9:47 AM  
**To:** [REDACTED]@CDCR; Duffy, Brian@CDCR  
**Subject:** FW: [REDACTED]

---

**From:** McAuliffe, John@CDCR  
**Sent:** Friday, August 20, 2010 9:46:50 AM  
**To:** Kernan, Scott@CDCR  
**Subject:** Fw: [REDACTED]  
**Auto forwarded by a Rule**

Scott  
See email. I called yesterday and said we needed a date. Also told [REDACTED] if he got a hold of any ship it to us immediately.  
John

---

**From:** [REDACTED]  
**To:** McAuliffe, John@CDCR  
**Sent:** Fri Aug 20 06:19:22 2010  
**Subject:** RE: [REDACTED]

**From:** [Duffy, Brian@CDCR](mailto:Duffy_Brian@CDCR)  
**To:** [Kernan, Scott@CDCR](mailto:Kernan_Scott@CDCR)  
**Subject:** Re: Drugs  
**Date:** Monday, August 02, 2010 11:20:16 AM

---

I'll come in tomorrow morning and give to you. Do you need it today?

----- Original Message -----

**From:** Kernan, Scott@CDCR  
**To:** McAuliffe, John@CDCR  
**Cc:** Duffy, Brian@CDCR  
**Sent:** Mon Aug 02 09:58:01 2010  
**Subject:** RE: Drugs

Please and let me know. I was under impression that there was ~~no problem with these other two~~ drugs and we had quantity internally. Going to get very political quick. [REDACTED]

I know Brian struck out with the big company's for an importer but was looking for some smaller companies that could possibly help out. I also need to know where we are at on the email to DEA (brian?)

Scott

-----Original Message-----

**From:** McAuliffe, John@CDCR  
**Sent:** Monday, August 02, 2010 9:51 AM  
**To:** Kernan, Scott@CDCR  
**Subject:** Drugs

Scott

Bruce Slavin just called and asked if we are having any problems getting the other two drugs? He said the AG called him and said they (AG) heard there is a shortage of Pancurium Bromide? Not sure where this is coming from but will immediately find out.

John

**From:** Cate, Matt@CDCR  
**To:** [REDACTED]@CDCR; [REDACTED]@CDCR  
**Subject:** FW: Call Placed  
**Date:** Wednesday, September 22, 2010 8:14:39 AM

---

-----  
**From:** Kernan, Scott@CDCR  
**Sent:** Wednesday, September 22, 2010 8:12:46 AM  
**To:** Cate, Matt@CDCR  
**Subject:** FW: Call Placed  
**Auto forwarded by a Rule**

FYI

Scott

---

**From:** [REDACTED]  
**Sent:** Wednesday, September 22, 2010 8:06 AM  
**To:** Kernan, Scott@CDCR  
**Cc:** [REDACTED]  
**Subject:** Call Placed

Good Morning Scott:

Per Matt's request, [REDACTED] has placed a call to Governor Perry's office and discussed the need for having a commitment to ship, upon request, a dose of sodium pentothal from TDCJ to CDCR. Governor Perry is traveling today, but [REDACTED] talked with the Governor's assistant, who in turn, will get in touch with Governor Perry and get back to [REDACTED] sometime today or early tomorrow.

I will keep you advised.

[REDACTED]

**From:** Cate, Matt@CDCR  
**To:** [REDACTED]@CDCR; [REDACTED]@CDCR; [REDACTED]@CDCR  
**Subject:** FW: Import/Export Permit Application  
**Date:** Tuesday, August 17, 2010 1:58:19 PM

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**From:** Kernan, Scott@CDCR  
**Sent:** Tuesday, August 17, 2010 1:58:17 PM  
**To:** Cate, Matt@CDCR; Rice, Benjamin@CDCR  
**Subject:** FW: Import/Export Permit Application  
**Auto forwarded by a Rule**

FYI  
Scott

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**From:** McAuliffe, John@CDCR  
**Sent:** Tuesday, August 17, 2010 12:44 PM  
**To:** Kernan, Scott@CDCR  
**Cc:** Gaddi, Kathy@CDCR  
**Subject:** Import/Export Permit Application

Scott  
For your review....  
John

[REDACTED]@USDOJ.gov  
Office of Diversion Control  
Drug Enforcement Administration  
United States Department of Justice

Dear Sir;

First let me thank you again for taking the time to talk and assist us in finding a solution in procuring thioental. As you are well aware, Title 21 United States Code (USC) Controlled Substances Act; Section 952; Importation of Controlled Substances; outlines exceptions for importation of Schedule III controlled substances. Specifically,

- Such amounts of any controlled substance in Schedule III the Attorney General finds to be necessary to provide for the medical, scientific, or other legitimate needs of the United States
- During an emergency in which domestic supplies of such substance or drug are found by the Attorney General to be inadequate.
- In any case in which the Attorney General finds that competition among domestic manufacturers of the controlled substance is inadequate and will not be rendered adequate by the registration of additional manufacturers under section 823 of this title.
- In any case in which the Attorney General finds that such controlled substance is in limited quantities exclusively for scientific, analytical or research uses; may be so imported under such regulations as the Attorney General shall prescribe.

California Department of Corrections and Rehabilitation (CDCR) finds itself unfortunately meeting all of the above bullets. As we have discussed, I have had John McAuliffe ([John.McAuliffe@cdcr.ca.gov](mailto:John.McAuliffe@cdcr.ca.gov)) contact the Diversion Control Units in San Francisco [REDACTED]; Sacramento [REDACTED]; Oakland (Helpline) and Washington D.C. to get assistance in the procurement of Thiopental, a scheduled III controlled substance.

Thiopental is one of three chemicals that is authorized by the State of California for capital punishment by lethal injection. In May 2010, it was reported by the American Society of Health-System Pharmacists (ASHP) that there was a shortage of thiopental. This shortage was sparked by a manufacturing problem of thiopental as well as a shortage of propofol (a popular anesthetic used by anesthesiologists) which forced anesthesiologists to further deplete supplies of thiopental as a substitute. Additionally, CDCR had contact with numerous Compounding Pharmacies around the San Francisco Bay area with the same result and answer; "Thiopental is getting very hard to find and the manufacturer (Hospira) has the drug on back order with no predicted new date for or when it might be available."

CDCR has located a supply of sodium thiopental in Pakistan, specifically;



I am requesting help from your office to assist CDCR with the process of procuring the thiopental through the Import/Export Permit Application. We are requesting for the Warden of San Quentin State Prison be permitted to directly order the thiopental from Pakistan for delivery to San Quentin State Prison;

[REDACTED]  
Neumiller Infirmary Pharmacy  
California State Prison, San Quentin  
San Quentin, California 94964

CDCR would be ordering 210 grams. The state of California's Lethal Injection Regulation, CDCR, Title 15; 3349; calls for a 500 mg/2.5% Kit (25 mg/mL) combination package with contents of 500 mg of Thiopental powder and 20mL flip top vial of sterile water to be mixed by appropriate execution team members. CDCR will be ordering from Pakistan 210 grams or 420 individual package kits of thiopental.

I look forward to talking to you and discussing this matter.

Scott Kernan  
Undersecretary, Operations  
California Department of Corrections and Rehabilitation  
[REDACTED]

From: Cate, Matt@CDCR  
To: @CDCR; @CDCR; @CDCR  
Subject: FW: Lethal Injection/Sodium Thiopental  
Date: Monday, August 02, 2010 4:20:12 PM



From: @oag.ok.gov [mailto: @oag.ok.gov]  
Sent: Monday, August 02, 2010 6:15 AM  
To: [AG]  
Cc: @oag.state.VA.us; @AZag.gov; @msn.com;  
@SCag.gov; @SCag.gov; @SCag.gov; @SCag.gov;  
@gmail.com; @PalauNet.com; @atg.WA.gov; @oag.state.MD.us;  
@oag.state.NY.us; @SCag.gov; @doj.state.OR.us;  
@ago.MO.gov; @state.SD.us; @ag.TN.gov;  
@state.MA.us; @state.MA.us; @doj.CA.gov;  
@SCag.gov; @Samoa | @co.com; @RIag.state.RI.us;  
@AttorneyGeneral.gov; @law.GA.gov; @Utah.gov; @Michigan.gov;  
@NCdoj.gov; @doj.CA.gov; @oag.state.TX.us;  
@oag.state.TX.us; @ago.MO.gov; @doj.state.OR.us;  
@myFloridalegal.com; @Utah.gov; @riaq.RI.gov; @NCdoj.gov;  
@MT.gov; @myFloridalegal.com; @Michigan.gov;  
@state.CO.us; @KSAq.org; @Michigan.gov;  
@myFloridalegal.com; @oag.state.TX.us; @doj.CA.gov;  
@Arkansasag.gov; @ag.KY.gov; @state.OR.us;  
@doj.CA.gov; @ArkansasAG.gov; @ag.TN.gov;  
@Ohioattorneygeneral.gov; @Alaska.gov;  
@oag.state.OK.us; @atg.state.IL.us; @Maine.gov;  
@NAAG.org; @ag.state.LA.us; @ag.NV.gov; @DOJ.gov.VI;  
@oag.state.TX.us; @oag.state.MD.us; @atg.state.IL.us;  
@oag.state.TX.us; @Ohioattorneygeneral.gov;  
@state.DE.us; @doj.NH.gov; @oag.state.TX.us;  
@Ohioattorneygeneral.gov; @Nebraska.gov; @atg.state.IL.us;  
@ago.state.MS.us; @ag.TN.gov; @oag.state.TX.us;  
@Michigan.gov; @doj.state.WI.us; @Ohioattorneygeneral.gov;  
@oag.state.TX.us; @atg.state.IL.us; @ag.KY.gov;  
@state.DE.us; @doj.state.OR.us; @po.state.CT.us;  
@NJdcj.org; @NJdcj.org; @Ohioattorneygeneral.gov;  
@doj.state.OR.us; @doj.state.OR.us; @atg.IN.gov;  
@Nebraska.gov; @state.DE.us; @ag.Idaho.gov;  
@oag.OK.gov; @oag.state.TX.us; @oag.OK.gov;  
@oag.state.VA.us; @ago.state.MS.us; @WVago.gov;  
@oag.state.TX.us; @Ohioattorneygeneral.gov;  
@oag.state.TX.us; @ag.KY.gov; @Ohioattorneygeneral.gov;  
@NAAG.org; @po.state.CT.us; @state.CO.us;  
@ago.MO.gov; @state.CO.us; @AZag.gov;

@doj.state.OR.us; @oag.state.TX.us; @oag.state.TX.us;  
@myFloridalegal.com; @ago.state.MS.us; @oag.state.VA.us;  
@atg.state.VT.us; @oag.state.MD.us; @oag.state.TX.us;  
@myFloridalegal.com; @doj.state.OR.us; @Arkansas.gov;  
@oag.state.VA.us; @oag.state.VA.us; @ArkansasAG.gov;  
@atg.IN.gov; @AZag.gov; [AG]; @doj.CA.gov;  
@state.MN.us; @ago.NE.gov; @oag.state.VA.us;  
@Michigan.gov; @doj.state.OR.us; @KSag.org; @ND.gov;  
@ag.Idaho.gov; @co.dakota.MN.us; @AZag.gov;  
@oag.state.TX.us; @GuamAttorneyGeneral.com; @oag.state.VA.us;  
@ago.state.MS.us; @oag.state.NY.us; @michigan.gov;  
@Hawaii.gov; @doj.state.WI.us; @state.WY.us; @Honolulu.gov;  
@doj.state.OR.us; @riag.RL.gov; @co.anoka.MN.us;  
@oag.state.TX.us; @oag.state.TX.us; @ag.NV.gov;  
@Michigan.gov; @NCdoj.gov; @ago.state.AL.us; @NCdoj.gov;  
@oag.state.TX.us; @state.WY.us; @ag.KY.gov;  
@po.state.CT.us; @myFloridalegal.com; @NMag.gov;  
@doj.state.WI.us; @Michigan.gov; @ohioattorneygeneral.gov;  
@MT.gov; @ago.state.AL.us; @law.GA.gov; @Alaska.gov;  
@state.MA.us; @oag.state.TX.us; @NMag.gov;  
@co.dakota.MN.us; @doj.state.WI.us; @doj.state.WI.us;  
@state.MA.us; @myFloridalegal.com; @atg.WA.gov;  
@state.DE.us; @state.MN.us; @oag.state.TX.us;  
@ago.state.MS.us; @law.GA.gov; @Arkansasag.gov;  
@state.MA.us; [AG]; @oag.state.VA.us; @WVago.gov;  
@oag.state.TX.us; @WVago.gov; @Phila.gov;  
@atg.WA.gov; @oag.state.TX.us; @DC.gov;  
@doj.CA.gov; @Ohioattorneygeneral.gov; @doj.CA.gov;  
@myFloridalegal.com; [AG]; @state.SD.us; @Michigan.gov;  
@ago.state.AL.us; @doj.CA.gov; @oag.OK.gov;  
@Ohioattorneygeneral.gov; @Ohioattorneygeneral.gov;  
@ago.MO.gov; @oag.state.TX.us; @atg.IN.gov;  
@doj.state.WI.us; @doj.state.OR.us; @doj.NH.gov;  
@oag.state.TX.us; @oag.state.TX.us; @ago.state.MS.us;  
@atg.state.IL.us; [AG]; @Utah.gov;  
@Ohioattorneygeneral.gov; @doj.NH.gov; @Phila.gov;  
@oag.state.TX.us; @oag.state.TX.us; @oag.state.TX.us;  
@oag.state.TX.us; @DOJ.gov.VI; @NAAG.org; @oag.state.VA.us;  
@doj.CA.gov; @doj.state.WI.us; @Alaska.gov;  
@Ohioattorneygeneral.gov; @Maine.gov; @NAAG.org;  
@doj.CA.gov

**Subject:** Lethal Injection/Sodium Thiopental

In Oklahoma, the law provides that an execution must be inflicted by an ultra short-acting barbiturate, as well as other drugs. As many of you are aware, sodium thiopental is in short supply. At this point, Oklahoma has an execution scheduled for August 17 and we have not been successful in finding any sodium thiopental to carry out the execution. I understand that other states have run into this problem. Can you please advise me of the course of action that has been taken in this situation? Or, if anyone has any information on how to obtain this drug or any other ultra short-acting barbiturate, that would be extremely helpful.

Thank you.



**From:** Cate, Matt@CDCR  
**To:** [REDACTED]@CDCR; [REDACTED]@CDCR; [REDACTED]@CDCR  
**Subject:** FW: Per Our Conversation  
**Date:** Wednesday, August 04, 2010 12:23:00 PM  
**Attachments:** California Drugs August 2010.xls

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**From:** Kernan, Scott@CDCR  
**Sent:** Wednesday, August 04, 2010 12:22:57 PM  
**To:** Cate, Matt@CDCR; Rice, Benjamin@CDCR  
**Subject:** FW: Per Our Conversation  
**Auto forwarded by a Rule**

Talked with [REDACTED] [REDACTED] s still beating bush for sodium Thiopental. [REDACTED] is placing the order for all three drugs, probably even get done today. [REDACTED] update was:

Sodium Thiopental – No national provider and none anticipated In 2010. Found international provider. Looking for way to import and method to validate correct mix. Sounded positive

Pancuronium Bromide – Hospira does provide and expect availability August/September.

Potassium Chloride – Available no problem.

I am sending hlm shipping information and billing data. We are going to ship directly to SQ pharmacy for our teams pick up and storage consistent with Reg. I could run into problem with Receiver using the Pharmacy, but think I can work through it. Our volunteer doctor is using his DEA number. The bill will come directly to me and I'll discretely handle through our procurement.

We are still pursuing a DEA exemption and trying to find our own importer just so if this avenue does not work out we have somewhere else to go.

We have contacted all states and Feds for drug with no luck. All states are in the same boat. Virginia did say they have a quantity of expired Thiopental but would require FDA waiver of expiration date. They ran into brick wall when they tried this with the FDA.

I will send you behind this email a timeline prepared by staff of all of our efforts. Let me know if you need anything else.

Scott

---

**From:** [REDACTED]  
**Sent:** Wednesday, August 04, 2010 11:50 AM  
**To:** Kernan, Scott@CDCR  
**Subject:** Per Our Conversation

Hi Scott:

From: Cate, Matt@CDCR  
To: [REDACTED]@CDCR; [REDACTED]@CDCR  
Subject: FW: URGENT - Formulary QJestion  
Date: Wednesday, September 29, 2010 4:48:43 PM  
Importance: High

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From: [REDACTED]@CDVA.CA.GOV  
Sent: Wednesday, September 29, 2010 4:48:30 PM  
To: Cate, Matt@CDCR  
Subject: RE: URGENT - Formulary QJestion  
Importance: High  
Auto forwarded by a Rule

Matt,

We don't carry in either pharmacy. We will continue to check with federal VA but will not have answer until tomorrow.

[REDACTED]  
916 [REDACTED]  
[REDACTED]

---

From: [REDACTED]  
Sent: Wednesday, September 29, 2010 4:33 PM  
To: [REDACTED]  
Cc: [REDACTED], 'matt.cate@cdcr.ca.gov'  
Subject: RE: URGENT - Formulary QJestion

We do not stock.

Will call VA.

---

From: [REDACTED]  
Sent: Wednesday, September 29, 2010 4:25 PM  
To: [REDACTED]  
Cc: [REDACTED], 'matt.cate@cdcr.ca.gov'  
Subject: URGENT - Formulary QJestion

[REDACTED]  
Follow-up to [REDACTED] and my calls:

I need a quick response about whether you would carry sodium thiopental in your pharmacy formulary and if so how much you have in stock? And care you spare any for loan to CDCR.

Less of a rush but still ASAP, could you check **USDVA** formularies as well and see if they would be willing to loan some to CDCR?

Thanks



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**From:** Cate, Matt@CDCR  
**To:** Kernan, Scott@CDCR  
**Subject:** FW: No CDCR Star Today  
**Date:** Tuesday, September 28, 2010 10:51:00 AM

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Arizona says they have ordered Sodium Thiopental. Where are from whom?

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**From:** Hidalgo, Oscar@CDCR  
**Sent:** Tuesday, September 28, 2010 9:24 AM  
**To:** CDCR Cabinet  
**Subject:** No CDCR Star Today

Due to staff shortages in OPEC, the CDCR will not be published today. Here are some key news clips below.

## **Governor delays execution for Riverside killer**

09:00 AM PDT on Tuesday, September 28, 2010

By RICHARD K. DE ATLEY  
The Press-Enterprise

**AP Interactive:** [Method of execution in states with the death penalty](#)

**UPDATED 8:45 A.M.:** A federal judge who cleared the way for the execution of Albert Greenwood Brown Jr. has been ordered to hold a hearing on whether California's three-drug protocol for lethal injection executions complies with a U.S. Supreme Court ruling.

"This matter is remanded to the district court to determine whether, under Baze, Brown is entitled to a stay of his execution as it would be conducted under the three-drug protocol now in effect," the U.S. 9th Circuit Court of Appeals wrote.

Baze is the 2008 U.S. Supreme Court ruling that found constitutional the three-drug cocktail used in lethal injection executions. It adopted a standard of whether the procedure poses a "substantial risk of serious harm."

Brown was sentenced to death in 1982 for the kidnap, rape, and strangulation of 15-year-old Susan Louise Jordan of Riverside in 1980.

Brown, 56, currently faces death by legal injection at San Quentin Prison at 9 pm Thursday, just three hours before the Oct. 1 expiration of the first drug that will be pumped into his system, sodium thiopental.

The manufacturer has said it has problems with manufacture of the drug and that it likely cannot produce new batches until January.

There was no immediate word on how the order for a hearing in Fogel's court may

affect the time for Brown's execution, which had been moved from 12:01 a.m. Wednesday.

Gov. Arnold Schwarzenegger ordered the 45-hour reprieve Monday because the time to petition the state Supreme Court to hear an appeal regarding Brown's case expires Sept. 30 -- one day after Brown's previously scheduled execution time of 12:01 a.m. Wednesday.

Brown, 56, was first sentenced to die for the murder of 15-year-old Susan Louise Jordan in 1982. He would be the first person executed in California since early 2006.

"I did expect some kind of delay -- that's what happens," said James Jordan, Susan's brother, who plans to attend the execution along with sister Karen Jordan Brown. "I expected something, to be honest."

Brown abducted Susan Jordan on Oct. 28, 1980, as she walked along Victoria Avenue in Riverside on her way to Arlington High School. The girl was raped and strangled with one of her shoelaces.

Later that evening, Brown made taunting phone calls to Jordan's mother, telling her she would never see her daughter again, then hinted about where her body could be found in an orange grove.

He was arrested a few days later and has been in custody ever since.

An appeals court on Sept. 20 overturned a Marin County Superior Court ruling that ordered the state to refrain from carrying out lethal injection executions. The permitted time for appeal does not end until Sept. 30.

"This is a legal technicality and we anticipate the execution moving forward," said Riverside County district attorney spokesman John Hall.

Schwarzenegger also is considering a clemency request from Brown.

"The reprieve has nothing to do with his clemency request. It's to allow Mr. Brown to exhaust all his appeals under the law," said Rachel Arrezola, a Schwarzenegger spokeswoman.

Schwarzenegger's decision on whether to grant clemency to Brown is expected as soon as today.

## **DRUG SHORTAGE**

Hospira, the only company in the country that makes sodium thiopental, has blamed the shortage on unspecified problems with its raw-material suppliers and said new batches of the drug will not be available until January at the earliest. Several other states have rescheduled executions because of the drug shortage.

The company has also told prison officials across the country, "we do not support the use of any of our products in capital punishment procedures."

The California attorney general's office said Monday it would recommend not scheduling any more executions after Thursday until the state can secure a fresh supply of the drug, an anesthetic that renders condemned inmates unconscious before lethal drugs are injected.

Sodium thiopental is a barbiturate, used primarily to anesthetize surgical patients and induce medical comas. It is also used to help terminally ill people commit suicide and sometimes to euthanize animals.

Sodium thiopental would be the first drug administered to Brown, who is to receive two shots each of 1.5 grams of the sedative, and more if he is still awake. Once he's unconscious, Brown would be injected with pancuronium bromide and potassium chloride, which should stop his heart.

Brown has exhausted all the appeals for his criminal case. His court actions are now limited to challenging the protocol of California's newly adopted lethal injection procedures, which were put in place in late August.

The delay was imposed by Schwarzenegger just hours after Marin County Superior Court Judge Verna Adams refused to block Brown's execution. Brown's attorneys argue that the process puts the inmate at risk of suffering extreme pain. They also say the regulations were drafted improperly and ignored the many public comments warning about the perils of the three-drug cocktail.

Adams did not agree.

"Mr. Brown cannot prove that he will suffer pain if he is executed under the current regulations," Adams said.

Brown's case also is before the 9th U.S. Circuit Court of Appeals.

Brown's attorneys appealed after a federal judge Friday refused to halt his scheduled execution.

*The Associated Press contributed to this story*

Reach Richard K. De Atley at 951-368-9573 or [rdeatley@PE.com](mailto:rdeatley@PE.com)

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## Execution drama unfolds in California

By Howard Mintz [hmintz@mercurynews.com](mailto:hmintz@mercurynews.com)  
Posted: 09/28/2010 08:22:08 AM PDT

With furious legal battles swirling through the courts and a bid for clemency on the governor's desk, California's first execution in nearly five years may now hinge on a surprising factor: whether it can be carried out before one of the state's lethal drugs

hits its expiration date and prison officials are left without a dose they need to put a Riverside County murderer to death.

The fast-paced drama to resume executions in California took several new and unprecedented twists Monday, when Gov. Arnold Schwarzenegger gave Albert Greenwood Brown a 45-hour reprieve to allow his final legal arguments and clemency request to get full consideration. The governor's order pushed Brown's scheduled execution from Wednesday morning to 9 p.m. Thursday.

Then a federal appeals court late Monday night cast more doubt on whether Brown's execution could go forward, finding in part that a San Jose federal judge last week failed to fully evaluate California's new lethal injection procedures when he said Brown's execution could proceed.

The 9th U.S. Circuit Court of Appeals ordered U.S. District Judge Jeremy Fogel to reconsider the case, which could prompt another delay of the execution.

"It is incredible to think that the deliberative process might be driven by the expiration date of the execution drug," the court said.

The ruling came the same day it was revealed that as of Friday, prison officials will no longer have a usable dose of the anesthetic sodium thiopental, the first of three drugs used in a lethal injection. The Illinois-based manufacturer of sodium thiopental has said it will not have a fresh supply of the anesthetic until early next year.

That means that if Brown's execution is delayed much further, it would have to be postponed until 2011. Also delayed would be the state's efforts to set execution dates for several other California death row inmates, including Santa Clara County's David Allen Raley. Oklahoma and Kentucky have recently postponed executions because of the shortage of the drug.

Brown, on death row since 1982 for the rape and murder of a 15-year-old girl, would be the first inmate executed in California since January 2006. The state's executions have been on hold since that time as a result of legal challenges to the lethal injection method.

Two judges in recent days have rejected Brown's bid to block the execution. On Monday, a Marin County judge turned away a challenge based on the argument that the state failed to properly adopt its new lethal injection procedures, which went into effect in August. Fogel also refused to stay the execution this weekend.

Brown's lawyers appealed both orders.

In rejecting Brown's legal arguments last week, Fogel gave the 56-year-old death row inmate a choice of being put to death with a single drug, the sodium thiopental, or the state's preferred three-drug combination. Fogel in 2006 put executions on hold in California after concluding that the state's lethal injection method at the time was flawed and posed an undue risk of a cruel and inhumane execution.

But the San Jose judge rejected Brown's bid to stay his execution, citing the state's revised procedures and a 2008 U.S. Supreme Court ruling that upheld Kentucky's similar protocol. Fogel indicated that a fatal dose of the single anesthetic could avoid potential risks in the state's planned use of the three-drug cocktail.

Brown refused to choose his method of execution, appealing Fogel's ruling to the 9th Circuit, which found the judge's order giving Brown a choice of drugs was "not consistent with California state law and procedures."

John Grele, one of Brown's lawyers, called it "ridiculous" that the state is attempting to squeeze the execution into a five-hour window Thursday night without any backup supply of drugs if the procedure goes awry. "Now we know why they insisted on this date," Grele said. "Talk about a rush to execution."

In a court filing Monday, Attorney General Jerry Brown, who has intensified the push to resume executions in the midst of his heated gubernatorial campaign, said Albert Brown's arguments were "merely the pretext for seeking to avoid execution by any means."

Albert Brown's lawyers have separately asked Schwarzenegger for clemency, relying in large part on the argument that his trial jury did not get full information on the scope of his mental problems and brain damage. The clemency petition asked Schwarzenegger to postpone the execution to give the next governor an opportunity to consider the issue next year.

Riverside County prosecutors and the family of the high school girl killed by Brown have urged the governor to deny clemency.

Schwarzenegger has not granted clemency while in office, nor has any other governor since the state restored the death penalty in 1978. Brown would be the 14th inmate executed during that period.

Contact Howard Mintz at 408-286-0236.

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Some US executions held up by shortage of drug

By ANDREW WELSH-HUGGINS (AP) – 8 hours ago

COLUMBUS, Ohio — Some executions in the U.S. have been put on hold because of a shortage of one of the drugs used in lethal injections from coast to coast.

Several of the 35 states that rely on lethal injection are either scrambling to find sodium thiopental — an anesthetic that renders the condemned inmate unconscious — or considering using another drug. But both routes are strewn with legal or ethical roadblocks.

The shortage delayed an Oklahoma execution last month and led Kentucky's governor to postpone the signing of death warrants for two inmates. Arizona is trying to get its hands on the drug in time for its next execution, in late October. California said the shortage will force



it to stop executions on Friday, three hours after an inmate is scheduled to die, when its stock expires.

The sole U.S. manufacturer, Hospira Inc. of Lake Forest, Ill., has blamed the shortage on unspecified problems with its raw-material suppliers and said new batches of sodium thiopental will not be available until January at the earliest.

Nine states have a total of 17 executions scheduled between now and the end of January, including Missouri, Ohio, Oklahoma, Tennessee and Texas.

"We are working to get it back onto the market for our customers as soon as possible," Hospira spokesman Dan Rosenberg said.

But at least one death penalty expert was skeptical of Hospira's explanation, noting that the company has made it clear it objects to using its drugs for executions. Hospira also makes the two other chemicals used in lethal injections.

Sodium thiopental is a barbiturate, used primarily to anesthetize surgical patients and induce medical comas. It is also used to help terminally ill people commit suicide and sometimes to euthanize animals.

Thirty-three of the states that have lethal injection employ the three-drug combination that was created in the 1970s: First, sodium thiopental is given by syringe to put the inmate to sleep. Then two other drugs are administered: pancuronium bromide, which paralyzes muscles, and potassium chloride, which stops the heart.

Ohio and Washington state use just one drug to carry out executions: a single, extra-large dose of sodium thiopental.

Hospira has blamed the shortage on "raw-material supplier issues" since last spring, first promising availability in July, then October, then early 2011. The company has refused to elaborate on the problem. But according to a letter obtained by The Associated Press from the Kentucky governor's office, Hospira told state officials that it lost its sole supplier of the drug's active ingredient and was trying to find a new one.

As for the possibility of obtaining the drug elsewhere, the Food and Drug Administration said there are no FDA-approved manufacturers of sodium thiopental overseas.

Switching to another anesthetic would be difficult for some states. Some, like California, Missouri and Kentucky, adopted their execution procedures after lengthy court proceedings, and changing drugs could take time and invite lawsuits.

Obtaining sodium thiopental from hospitals does not appear to be an option, either. Sodium thiopental has been largely supplanted by other anesthetics in the U.S., and hospitals do not stock much of it.

Also, drug purchasing and use rules — and ethical guidelines that bar the medical profession from getting involved in executions — could prevent hospitals from supplying prisons with the drug, according to industry experts.

"Many of these cases, the victims have waited for 20 years, some of them longer than that. If we're out of that drug, we need to have an alternative," said Tennessee state Sen. Jim Tracy.

Tennessee said it has enough of the drug for a November execution and expects to be able to carry out another in December.

Last spring, Hospira, a publicly traded company, sent a letter to all states outlining its discomfort with the use of its drugs for executions, as it has done periodically.

"Hospira provides these products because they improve or save lives and markets them solely for use as indicated on the product labeling," Kees Groenhout, clinical research and development vice president, said in a March 31 letter to Ohio, obtained by the AP. "As such, we do not support the use of any of our products in capital punishment procedures."

Jonathan Groner, an Ohio State University surgeon and death penalty opponent who researches the issue, speculated the real reason for the unavailability of sodium thiopental is that its medical uses "have shrunk to the point that the company doesn't want to make a drug that has no use but to kill people."

However, Rosenberg, the company spokesman, said the shortage has nothing to do with that.

Last month, an Oklahoma judge delayed the execution of Jeffrey Matthews when the state tried to switch anesthetics after running out of its regular supply in August. Matthews was convicted of killing his 77-year-old great-uncle during a 1994 robbery. Oklahoma finally found enough sodium thiopental from another state, but the court-ordered delay continues.

A few weeks ago, Kentucky's governor held off signing death warrants — which set execution dates and allow executions to proceed — for two inmates because the state is almost out of sodium thiopental. The state's lone dose hits its expiration date Oct. 1.

Kentucky officials said they have contacted other states unsuccessfully in a search for sodium thiopental and have gotten calls from states looking for the drug.

Kent Cattani, Arizona's top death penalty prosecutor, said Wednesday that the state doesn't have the drug and he is not optimistic it can be obtained in time for the Oct. 26 execution of Jeffrey Landrigan, who was sentenced to death for stabbing and strangling a man in 1989. But later, an Arizona Corrections Department spokesman said the agency has placed orders for sodium thiopental and expects to have it by next week.

Georgia pressed ahead with an execution Monday night, putting Brandon Joseph Rhode to death for the 1998 killings of Steven Moss, 37, his 11-year-old son Bryan and 15-year-old daughter Kristin during a burglary. Georgia's Corrections Department said it has an "appropriate supply" of sodium thiopental. The California attorney general's office had said it only has enough of the drug for Thursday's scheduled execution of Albert Brown, who was condemned to die in 1982 for the rape and murder of a 15-year-old girl, though a federal appeals court ordered a trial judge late Monday to reconsider his ruling that paved the way for the execution.

Virginia apparently had enough of the drug Thursday to execute Teresa Lewis, the first woman put to death in the U.S. since 2005. But officials suggested the state could have a problem after that, though Virginia has no executions scheduled.

"We are in the same position as every other state regarding this matter," said Larry Traylor, Virginia prisons spokesman. He would not be more specific.

Missouri has enough for an October execution, but its supply expires in January.

Ohio, which spends about \$350 for the drug for each execution, ran out of the amount state procedures call for just three days before a May 13 execution. The state obtained enough in time but won't say where.

Prisons officials in Texas, the nation's busiest death penalty state, refused to discuss how much sodium thiopental they have on hand, saying the information could inflame protesters outside the death house, and "people could get seriously hurt or killed."

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### Governor Postpones Execution in California

By JESSE MCKINLEY and MALIA WOLLAN

SAN FRANCISCO — With the clock ticking and uncertainties — both legal and pharmaceutical — hovering, Gov. Arnold Schwarzenegger ordered a temporary last-minute reprieve on Monday in what would be California's first execution in more than four years.

Mr. Schwarzenegger, a Republican in the final weeks of his administration, announced late Monday that he would postpone the execution of Albert G. Brown Jr. — who had been scheduled to die by lethal injection at 12:01 a.m. on Wednesday — until Thursday to allow time for legal appeals to be exhausted. The state Department of Corrections has rescheduled the execution for Thursday evening, the governor's office said.

Mr. Brown, 56, was convicted in 1982 of raping and strangling a 15-year-old girl in Riverside, Calif.

The postponement came after a whirlwind day in which Mr. Brown's fortunes seemed to rise and fall with each passing hour. Earlier Monday, Mr. Brown had been denied a stay from a state judge, Verna A. Adams, in Marin County, where San Quentin State Prison is located.

Shortly after that denial state officials also made a surprise announcement that the execution would be the last in the state until the one of the drugs proposed for his execution — sodium thiopental, a barbiturate — could be restocked by the state's Department of Corrections and Rehabilitation.

Moreover, Terry Thornton, a spokeswoman for the department, said its supply of sodium thiopental was good only until Friday. That expiration date is now just hours after Mr. Brown's planned execution on Thursday.

Ms. Thornton said her department was continuing with preparations for Mr. Brown's execution and had enough sodium thiopental to stop Mr. Brown's heart. She added that the state was "actively seeking supplies of the drug for future executions."

How exactly sodium thiopental became scarce is unclear. The Food and Drug Administration reported shortages in March, citing production issues with Hospira, an Illinois-based company that is the sole American manufacturer.

A company spokesman, Dan Rosenberg, said that the drug was unavailable because of a lack of supply of an active pharmaceutical ingredient and that Hospira was working to get the drug back on the market by early next year. But Mr. Rosenberg also expressed displeasure that the drug — meant to be used as an anesthetic — had found its way into death chambers.

“Hospira manufactures this product because it improves or saves lives, and the company markets it solely for use as indicated on the product labeling,” Mr. Rosenberg said in a statement. “The drug is not indicated for capital punishment, and Hospira does not support its use in this procedure.”

He added that the company had made that opinion clear to corrections departments nationwide.

Mr. Brown’s execution was cleared on Friday by a federal district judge, Jeremy D. Fogel, who had effectively halted executions in the state in 2006 after expressing concern about a three-drug cocktail commonly used in lethal injection procedures and various deficiencies in the state’s methods, including the training of execution teams, antiquated facilities and the preparation of execution drugs.

Since then, however, California has drafted detailed new regulations — approved earlier this year — to guide executions and built a new death chamber at San Quentin, north of San Francisco.

Those developments had apparently quelled Judge Fogel’s worries enough to allow Mr. Brown’s execution to proceed.

Mr. Brown is still seeking a stay from the United States Court of Appeals for the Ninth Circuit. His lawyer, John R. Grele, said Judge Fogel’s decision was “neither a legal nor rational response” to his client’s efforts to avoid execution or undue pain.

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LA Times Opinion

Capital punishment politics

By Elisabeth Senel

Story posted 2010.09.28 at 12:07 AM PDT

Californians tend to think that capital punishment in the South — especially in Texas, where the overwhelming majority of executions take place — is driven by politics. But this week’s scramble to carry out an execution in California for the first time in almost five years is a reminder that electoral politics is also an engine driving our state’s capital punishment system.

Executions have been on hold in California since 2006 because of three legal challenges to the manner by which the state takes a life. The most well known of the cases is the one in which U.S. District Judge Jeremy Fogel issued a preliminary ruling in December 2006 finding that if the California Department of Corrections and Rehabilitation did not revise its execution method, he would be compelled to declare California’s procedures in violation of

the cruel and unusual punishment clause of the U.S. Constitution.

In the second challenge, in state court, the corrections department was successfully sued for devising its lethal-injection protocol in secret, which is impermissible under the state's Administrative Procedures Act. A separate federal court challenge alleges that use of a paralytic chemical — the second in the three-drug procedure — acts as a "chemical curtain" that prevents the media and the public from observing whether the inmate is experiencing excruciating pain during the execution.

In each of the three lawsuits, Atty. Gen. Jerry Brown's office, which represents the corrections department, has argued that it is permitted to adopt its procedures behind closed doors — that is, to operate free from judicial or public oversight. Absent these legal challenges, however, the public would not have learned, as Fogel found, that the protocol in practice was unreliable and that there may have been problems with as many as seven of the 11 lethal-injection executions carried out under the protocol that was in place until now.

In July, the state's administrative agency approved the correction's department's new lethal-injection procedures. In August, with the approval of the state attorney general's office, the execution of Albert Greenwood Brown, who was convicted of murder and rape, was scheduled for Sept. 29. This action was taken despite the fact that none of the cases challenging California's lethal-injection procedures has been resolved.

On Friday, Fogel declined to include Brown in the case before him, but he expressed surprise at the state's insistence on speed: "The court has always understood, apparently incorrectly, that executions would not resume until it had an opportunity to review the new lethal-injection protocol."

On Monday, Gov. Arnold Schwarzenegger intervened to grant a reprieve until Sept. 30.

However, the politics of the situation are symbolized by the fact that the execution was scheduled at all. Jerry Brown's office insists that the attorney general, who is running for governor, had nothing to do with the exact timing of the Sept. 29 execution date. But it strains credulity to argue that any impetus other than election season politics accounts for this rush to execute.

We have seen this before. In California campaigns, candidates often work hard to establish their law-and-order bona fides, amplifying the volume on their endorsement of the death penalty. During the 1990 gubernatorial race between Pete Wilson and Dianne Feinstein, both candidates ran ads touting their support for the death penalty. This strategy has also been a hallmark of Dan Lungren's political career, as attorney general and now in Congress.

Candidates who support environmental and consumer protection, a woman's right to choose and public education frequently move to the right on criminal justice issues in order to get elected because it is the least politically risky shift. Brown — a onetime opponent of the death penalty who is facing Meg Whitman, an unwavering capital punishment advocate — is now positioned to be the man who got executions on track after a hiatus of nearly five years.

Since the last execution in California, there has been no public groundswell to get the death chamber back in business. Californians have been no less safe than they were between 1992 and 2006, when 13 men were executed. In fact, violent crimes — homicides in particular — have steadily declined during this period.

Both gubernatorial candidates insist that they can return California to solvency. But even as day-care centers are closing, teachers are being laid off and services for the poor and disabled are being curtailed, and the state parks are having trouble paying for toilet paper, neither Brown nor Whitman has publicly raised questions about whether the state should continue to shoulder the huge costs of capital punishment. According to the California Commission on the Fair Administration of Justice, the death penalty system costs the state \$137 million each year, and if the system were brought up to the level recommended by the commission, it would require an additional \$95 million annually to repair a system that California Chief Justice Ronald M. George called "dysfunctional." A new death row, needed to deal with such issues as overcrowding, will cost an estimated \$400 million.

Neither candidate has been willing to ask whether Californians want to spend the financial or moral capital it will take to execute the 700 men and women who have been sentenced to death.

In 2008, in his concurring opinion in *Baze vs. Rees*, which upheld Kentucky's lethal injection procedures, Supreme Court Justice John Paul Stevens announced his conclusion that capital punishment violates the Constitution. He called on the nation to begin a sober, rational discussion about the continued imposition of the death penalty.

Jerry Brown had the opportunity to open this dialogue in California by allowing the three legal challenges to go forward before an execution date was set. The governor stepped in to postpone Albert Brown's execution. But the politics of the situation remain unchanged.

Elisabeth Semel is a clinical professor of law at UC Berkeley's school of law, where she directs the Death Penalty Clinic.

Oscar Hidalgo  
Assistant Secretary, Communications  
California Department of Corrections and Rehabilitation



www.CDCR.ca.gov  
click inside California corrections



**From:** Rice, Benjamin@CDCR  
**To:** Kernan, Scott@CDCR  
**Cc:** Cate, Matt@CDCR  
**Sent:** Mon Aug 02 16:20:12 2010  
**Subject:** FW: Lethal Injection/Sodium Thiopental

FYI.

**From:** [REDACTED]@oag.ok.gov [mailto:[REDACTED]@oag.ok.gov]  
**Sent:** Monday, August 02, 2010 6:15 AM  
**To:** [REDACTED] [AG]  
**Cc:** [REDACTED]@oag.state.VA.us; [REDACTED]@AZag.gov; [REDACTED]@msn.com; [REDACTED]@SCag.gov; [REDACTED]@SCag.gov; [REDACTED]@SCag.gov; [REDACTED]@SCag.gov; [REDACTED]@gmail.com; [REDACTED]@PalauNet.com; [REDACTED]@atq.WA.gov; [REDACTED]@oag.state.MD.us; [REDACTED]@oag.state.NY.us; [REDACTED]@SCag.gov; [REDACTED]@doj.state.OR.us; [REDACTED]@ago.MO.gov; [REDACTED]@state.SD.us; [REDACTED]@ag.TN.gov; [REDACTED]@state.MA.us; [REDACTED]@state.MA.us; [REDACTED]@doj.CA.gov; [REDACTED]@SCag.gov; [REDACTED]@SamoaTelco.com; [REDACTED]@RIag.state.RI.us; [REDACTED]@AttorneyGeneral.gov; [REDACTED]@law.GA.gov; [REDACTED]@Utah.gov; [REDACTED]@Michigan.gov; [REDACTED]@NCdoj.gov; [REDACTED]@doj.CA.gov; [REDACTED]@oag.state.TX.us; [REDACTED]@oag.state.TX.us; [REDACTED]@doj.state.OR.us; [REDACTED]@myFloridalegal.com; [REDACTED]@Utah.gov; [REDACTED]@riag.RI.gov; [REDACTED]@NCdoj.gov; [REDACTED]@MT.gov; [REDACTED]@myFloridalegal.com; [REDACTED]@Michigan.gov; [REDACTED]@state.CO.us; [REDACTED]@KSag.org; [REDACTED]@Michigan.gov; [REDACTED]@myFloridalegal.com; [REDACTED]@oag.state.TX.us; [REDACTED]@doj.CA.gov; [REDACTED]@Arkansasag.gov; [REDACTED]@ag.KY.gov; [REDACTED]@state.OR.us; [REDACTED]@doj.CA.gov; [REDACTED]@ArkansasAG.gov; [REDACTED]@ag.TN.gov; [REDACTED]@Ohioattorneygeneral.gov; [REDACTED]@Alaska.gov; [REDACTED]@oag.state.OK.us; [REDACTED]@atg.state.IL.us; [REDACTED]@Maine.gov; [REDACTED]@NAAG.org; [REDACTED]@ag.state.LA.us; [REDACTED]@ag.NV.gov; [REDACTED]@DOJ.gov.VI; [REDACTED]@oag.state.TX.us; [REDACTED]@oag.state.MD.us; [REDACTED]@atg.state.IL.us; [REDACTED]@oag.state.TX.us; [REDACTED]@Ohioattorneygeneral.gov; [REDACTED]@state.DE.us; [REDACTED]@doj.NH.gov; [REDACTED]@oag.state.TX.us; [REDACTED]@Ohioattorneygeneral.gov; [REDACTED]@Nebraska.gov; [REDACTED]@atg.state.IL.us; [REDACTED]@ago.state.MS.us; [REDACTED]@ag.TN.gov; [REDACTED]@oag.state.TX.us; [REDACTED]@Michigan.gov; [REDACTED]@doj.state.WI.us; [REDACTED]@Ohioattorneygeneral.gov; [REDACTED]@oag.state.TX.us; [REDACTED]@atg.state.IL.us; [REDACTED]@ag.KY.gov; [REDACTED]@state.DE.us; [REDACTED]@doj.state.OR.us; [REDACTED]@po.state.CT.us; [REDACTED]@NJdcj.org; [REDACTED]@NJdcj.org; [REDACTED]@Ohioattorneygeneral.gov; [REDACTED]@doj.state.OR.us; [REDACTED]@doj.state.OR.us; [REDACTED]@atg.IN.gov; [REDACTED]@Nebraska.gov; [REDACTED]@state.DE.us; [REDACTED]@ag.Idaho.gov; [REDACTED]@oag.OK.gov; [REDACTED]@oag.state.TX.us; [REDACTED]@oag.OK.gov; [REDACTED]@oag.state.VA.us; [REDACTED]@ago.state.MS.us; [REDACTED]@WVago.gov; [REDACTED]@oag.state.TX.us; [REDACTED]@Ohioattorneygeneral.gov; [REDACTED]@oag.state.TX.us; [REDACTED]@ag.KY.gov; [REDACTED]@Ohioattorneygeneral.gov; [REDACTED]@NAAG.org; [REDACTED]@po.state.CT.us; [REDACTED]@state.CO.us; [REDACTED]@ago.MO.gov; [REDACTED]@state.CO.us; [REDACTED]@AZag.gov; [REDACTED]@doj.state.OR.us; [REDACTED]@oag.state.TX.us; [REDACTED]@oag.state.TX.us; [REDACTED]@myFloridalegal.com; [REDACTED]@ago.state.MS.us; [REDACTED]@oag.state.VA.us;

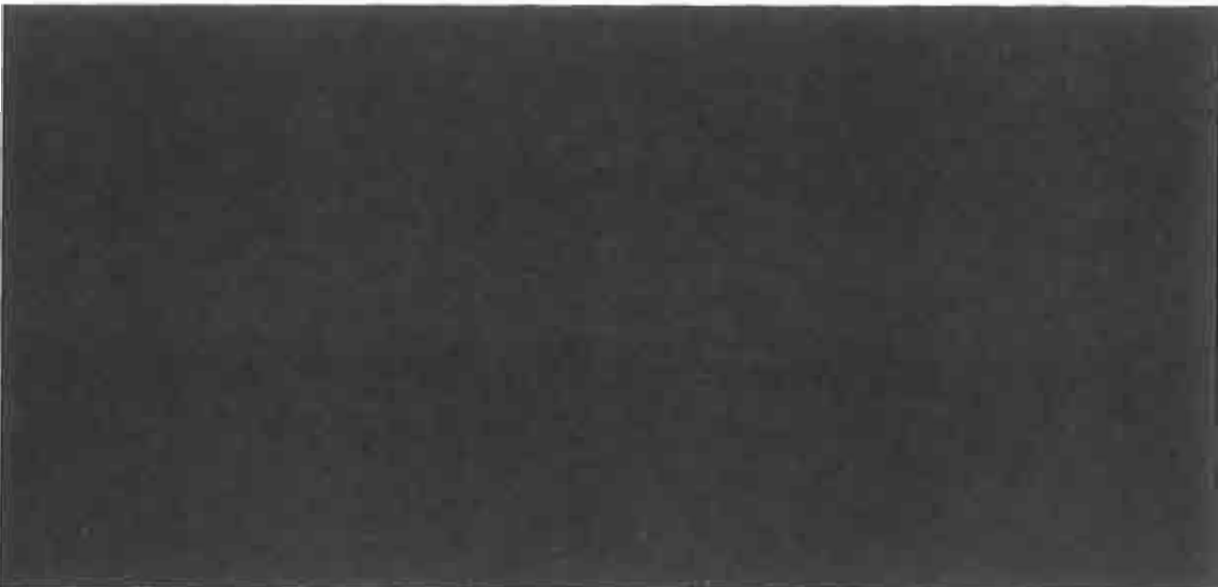
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@oag.state.TX.us; @GuamAttorneyGeneral.com; @oag.state.VA.us;  
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@Hawaii.gov; @doj.state.WI.us; @state.WY.us; @Honolulu.gov;  
@doj.state.OR.us; @riag.RI.gov; @co.anoka.MN.us;  
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@po.state.CT.us; @myFloridalegal.com; @NMag.gov;  
@doj.state.WI.us; @Michigan.gov; @ohioattorneygeneral.gov;  
@MT.gov; @ago.state.AL.us; @law.GA.gov; @Alaska.gov;  
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@doj.CA.gov; @doj.state.WI.us; @Alaska.gov;  
@Ohioattorneygeneral.gov; @Maine.gov; @NAAG.org;  
@doj.CA.gov

**Subject:** Lethal Injection/Sodium Thiopental

In Oklahoma, the law provides that an execution must be inflicted by an ultra short-acting barbiturate, as well as other drugs. As many of you are aware, sodium thiopental is in short supply. At this point, Oklahoma has an execution scheduled for August 17 and we have not been successful in finding any sodium thiopental to carry out the execution. I understand that other states have run into this problem. Can you please advise me of the course of action that has been taken in this situation? Or, if anyone has any information on how to obtain this drug or any other ultra short-acting barbiturate, that would be extremely helpful.

Thank you.





**From:** McAuliffe, John@CDCR  
**To:** Kernan, Scott@CDCR  
**Sent:** Mon Aug 02 12:20:02 2010  
**Subject:** FW: [REDACTED] Name

---

**From:** McAuliffe, John@CDCR  
**Sent:** Friday, July 30, 2010 10:20 AM  
**To:** Kernan, Scott@CDCR  
**Subject:** RE: [REDACTED]

Scott

Here is the email for the guy's name.....Also when you talk to him to have him place the order I would recommend placing an order for 3 executions.

63 grams of Sodium Thiopental  
1050 milligrams of Pancuronium Bromide  
4200 milliequivalents of Potassium Chloride

Each execution to include training will require a minimum of:

21 grams of Sodium Thiopental  
350 milligrams of Pancuronium Bromide  
1400 milliequivalents of Potassium Chloride

John McAuliffe

---

**From:** Kernan, Scott@CDCR  
**Sent:** Thursday, July 08, 2010 12:28 PM  
**To:** McAuliffe, John@CDCR  
**Subject:** FW: Lethal Injection Process

Fyl Matt is calling [REDACTED] to see if they receive a script from a doc will they order it. Let you know. Any luck from other states?

Scott

From: [REDACTED]  
To: [McAuliffe, John@CDCR](mailto:McAuliffe.John@CDCR)  
Subject: Re: ATTN: [REDACTED]  
Date: Thursday, October 07, 2010 10:01:30 AM

---

Dear Mr. McAuliffe:

To clarify, I have agreed only to start the process of investigating how to import this medication for the CDCR.  
The amount of time, cost, complexity, risk, and liability has yet to be determined.  
I will be meeting with corporate council on October 10, 2010.  
In the mean time please keep this matter private no public disclosure.  
I went to my files yesterday to review our previous process of importation.  
I will today or tomorrow time permitting contact the DEA contact you have provided me [REDACTED]  
I will keep you informed as I collect information, ask any further questions of you, and tender a final decision and cost by next week.

Thank you in advance for your consideration of my company.

[REDACTED]  
(562) [REDACTED] Monday through Friday 7:30am to 4:30pm PST  
[REDACTED]

**WARNING:** This email is covered by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). It contains health information that is personal and confidential and contains sensitive information related to a person's healthcare. The information contained therein is being emailed to you after obtaining authorization from the patient. You, being the recipient, are obligated to maintain this information in a SAFE, SECURE, CONFIDENTIAL, and RETRIEVABLE fashion. Unauthorized re-disclosure and/or failure to maintain confidentiality is prohibited by law and could subject you to penalties described under the Federal HIPAA Act of 1996 and applicable State law.

---

From: "McAuliffe, John@CDCR" <[John.McAuliffe@cdcr.ca.gov](mailto:John.McAuliffe@cdcr.ca.gov)>  
To: [REDACTED]  
Cc: "Kernan, Scott@CDCR" <[Scott.Kernan@cdcr.ca.gov](mailto:Scott.Kernan@cdcr.ca.gov)>  
Sent: Wed, October 6, 2010 10:38:53 AM  
Subject: [REDACTED]

Sir

I am forwarding this email to you for your record. CDCR would like to know if this process of obtaining the thiopental (Duty, Broker, any additional fees to include [REDACTED] fees) could be billed to CDCR as one invoice? Additionally, can you give a possible estimate as to how long this process will take before we receive the thiopental? Again, thank you for your assistance.

John McAuliffe

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**From:** [REDACTED]@usdoj.gov]  
**Sent:** Wednesday, October 06, 2010 1:34 AM  
**To:** McAuliffe, John@CDCR  
**Subject:** Re: [REDACTED]

Thank you. I'll make DEA's import/export unit aware of this matter.

[REDACTED]  
Office of Diversion Control

---

**From:** McAuliffe, John@CDCR <John.McAuliffe@cdcr.ca.gov>  
**To:** [REDACTED]  
**Cc:** Kernan, Scott@CDCR <Scott.Kernan@cdcr.ca.gov>  
**Sent:** Tue Oct 05 14:08:55 2010  
**Subject:** [REDACTED]

[REDACTED]  
Thank you for the list of companies listed with the DEA to import Thlopental. We have contacted [REDACTED] who has initially agreed to procure the Thlopental from London . We gave [REDACTED] your email as a point of contact with DEA since you know exactly what we have been doing and to whom we have been in contact with in your Department. Again thank you for your help and assistance.  
John McAuliffe

**From:** Kernan.Scott@CDCR  
**To:** McAuliffe.John@CDCR  
**Subject:** FW: DEA Registered Importers of Thiopental  
**Date:** Monday, October 04, 2010 2:59:54 PM

---

For our records.

Scott

---

**From:** [REDACTED]@usdoj.gov]  
**Sent:** Monday, October 04, 2010 2:58 PM  
**To:** Kernan, Scott@CDCR  
**Subject:** Re: DEA Registered Importers of Thiopental

The listed companies would file the appropriate paperwork. DEA would not require anything from the Dept of Corrections.

[REDACTED]  
Office of Diversion Control

---

**From:** Kernan, Scott@CDCR <Scott.Kernan@cdcr.ca.gov>  
**To:** [REDACTED]  
**Sent:** Mon Oct 04 17:48:07 2010  
**Subject:** RE: DEA Registered Importers of Thiopental

[REDACTED]

Thank you very much for getting me this list. We will contact them directly. I assume that if we can get one of them to import the drug for us that they will complete the appropriate documentation and you would not need anything directly from the department? Thanks again for your help.

Scott

---

**From:** [REDACTED]@usdoj.gov]  
**Sent:** Monday, October 04, 2010 1:19 PM  
**To:** Kernan, Scott@CDCR  
**Subject:** DEA Registered Importers of Thiopental

Attached is a spreadsheet containing companies who are specifically registered with DEA to import Thiopental. We are looking to send you an expanded list of companies as Thiopental belongs to a larger class of barbiturates. I'll send additional information if the additional importers are pertinent to your issue.

<<Importers of Thiopental.xml>>

[REDACTED]

[REDACTED]  
Office of Diversion Control

Drug Enforcement Administration

Phone: (202) [REDACTED]  
[REDACTED]

**From:** Kernan, Scott@CDCR  
**To:** McAuliffe, John@CDCR  
**Cc:** Duffy, Brian@CDCR  
**Subject:** FW: DEA Registered Importers of Thiopental  
**Date:** Monday, October 04, 2010 2:50:27 PM  
**Attachments:** [Importers of Thiopental.xml](#)

---

John,

Here is what DEA gave me. They are unwilling to provide a waiver. I would think we need to engage off this list and see if any are willing to help. Would you like Brian to help? I would like to document who we talked to and if necessary I will engage Matt or Gov Office to assist. Let me know what you think.

By the way, I called the head guy this morning and that is how we got a hold of [REDACTED]

Scott

---

**From:** [REDACTED]@usdoj.gov]  
**Sent:** Monday, October 04, 2010 1:19 PM  
**To:** Kernan, Scott@CDCR  
**Subject:** DEA Registered Importers of Thiopental

Attached is a spreadsheet containing companies who are specifically registered with DEA to import Thiopental. We are looking to send you an expanded list of companies as Thiopental belongs to a larger class of barbiturates. I'll send additional information if the additional importers are pertinent to your issue.

<<Importers of Thiopental.xml>>

[REDACTED]  
[REDACTED]  
Office of Diversion Control  
Drug Enforcement Administration  
Phone: (202) [REDACTED]  
[REDACTED]

**From:** [REDACTED]  
**To:** McAuliffe, John@CDCR  
**Subject:** RE: Thlopental Injection  
**Date:** Monday, October 04, 2010 12:38:30 PM

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John,

[REDACTED] does not have an existing Controlled Substance Import License to support Thlopental Sodium and does not wish to obtain the license for import of this material due to the risk of being the importer of record.

I wish you all the best.

[REDACTED]  
[REDACTED]  
[REDACTED]  
P: 317- [REDACTED]  
[REDACTED]  
[REDACTED]

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**From:** McAuliffe, John@CDCR [mailto:John.McAuliffe@cdcr.ca.gov]  
**Sent:** Thursday, September 30, 2010 12:05 PM  
**To:** [REDACTED]  
**Subject:** FW: Thlopental Injection  
**Importance:** High

[REDACTED]  
Thank you again here is the information and email.  
John McAuliffe

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**From:** [REDACTED]  
**Sent:** Thursday, September 30, 2010 5:27 AM  
**To:** McAuliffe, John@CDCR  
**Subject:** Thlopental Injection  
**Importance:** High

30-09-10

Dear Mr. McAuliffe,

Thank you for your call and thank you for your interest in [REDACTED]  
I would be happy to supply you:

Thiopental Injection , powder for reconstitution, thiopental sodium, 500-mg vial packs of 25's £196.75 (pounds sterling)  
The current expiry date is February 2014.

POTASSIUM CHLORIDE 1.5GM 10ML INJ. PACKS OF 10 £15.55