

From: Duffy, Brian@CDCR
To: McAuliffe, John@CDCR
Subject: RE: Purchase Order # [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] Kathy@CDCR; Duffy, Brian@CDCR
Subject: FW: Purchase Order # [REDACTED]

From: McAuliffe, John@CDCR
Sent: Friday, August 20, 2010 9:46:50 AM
To: Kernan, Scott@CDCR
Subject: Fw: Purchase Order # [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: Purchase Order # [REDACTED]

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

-Pentothal is expected to be available again sometime in the 4th 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,

[REDACTED]

From: McAuliffe, John@CDCR [mailto:John.McAuliffe@cdcr.ca.gov]

Sent: Thursday, August 19, 2010 4:16 PM

To: [REDACTED]

Subject: Purchase Order # [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: Kernan, Scott@CDCR
To: McAuliffe, John@CDCR
Subject: Re: Purchase Order # [REDACTED]
Date: Friday, August 20, 2010 10:22:43 AM

Got ur message. Thx.

From: McAuliffe, John@CDCR
To: Kernan, Scott@CDCR
Sent: Fri Aug 20 09:46:50 2010
Subject: Fw: Purchase Order # [REDACTED]

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: Purchase Order # [REDACTED]

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

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

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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,

[REDACTED]

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

[REDACTED]

[REDACTED]

From: [REDACTED]
To: McAuliffe, John@CDCR
Subject: RE: Purchase Order # [REDACTED]
Date: Friday, August 20, 2010 6:20:30 AM

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

-Pentothal is expected to be available again sometime in the 4th 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,

[REDACTED]

From: McAuliffe, John@CDCR [mailto:John.McAuliffe@cdcr.ca.gov]
Sent: Thursday, August 19, 2010 4:16 PM
To: [REDACTED]
Subject: Purchase Order # [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: McAuliffe, John@CDCR
Cc: Kernan, Scott@CDCR
Subject: FW: Approved purchase
Date: Thursday, August 19, 2010 1:25:18 PM

John,

Here is the approval from Brett Morgan. Let me know.

Brian

From: Morgan, Brett@CDCR
Sent: Thursday, August 19, 2010 1:24 PM
To: Gilpin, Timothy@CDCR
Cc: Duffy, Brian@CDCR
Subject: Approved purchase

John McAuliffe, who works on contract for us on lethal injection and death penalty issues, will be contacting you. He needs to purchase a list on-line of community hospitals. The list costs about \$65. Please assist John in purchasing the list.

From: Acosta-Hoshall, Christina@CDCR
To: McAuliffe, John@CDCR
Subject: RE: letter from Scott Kernan, Undersecretary, Operations, California Department of Corrections and Rehabilitation regarding procurement of Sodium Thiopental
Date: Thursday, August 19, 2010 12:52:23 PM

The letter has been mailed.

Thank you,



Christina Acosta-Hoshall
Executive Assistant to Terri McDonald, Chief Deputy Secretary, Adult Operations
California Department of Corrections and Rehabilitation
1515 S Street, Suite 502-S
Sacramento, CA 95811

From: McAuliffe, John@CDCR
Sent: Thursday, August 19, 2010 12:40 PM
To: Acosta-Hoshall, Christina@CDCR
Subject: RE: letter from Scott Kernan, Undersecretary, Operations, California Department of Corrections and Rehabilitation regarding procurement of Sodium Thiopental

Christina,
Here is the address for Scott's Letter....

Office of Diversion Control

Thanks
John McAuliffe

From: Acosta-Hoshall, Christina@CDCR [mailto: [REDACTED]@cdcr.ca.gov]
Sent: Wednesday, August 18, 2010 1:10 PM
To: [REDACTED]
Cc: Kernan, Scott@CDCR; McAuliffe, John@CDCR
Subject: letter from Scott Kernan, Undersecretary, Operations, California Department of Corrections and Rehabilitation regarding procurement of Sodium Thiopental

SENT ON BEHALF OF SCOTT KERNAN, UNDERSECRETARY, OPERATIONS

Please see the attached letter from Scott Kernan, Undersecretary, Operations, California Department of Corrections and Rehabilitation regarding procurement of Sodium Thiopental.

Thank you,

Christina Acosta-Hoshall
Executive Assistant to Terri McDonald, Chief Deputy Secretary, Adult Operations
California Department of Corrections and Rehabilitation
1515 S Street, Suite 502-S
Sacramento, CA 95811

[REDACTED]
[REDACTED]
[REDACTED]

From: [Acosta-Hoshall, Christina@CDCR](mailto:Acosta-Hoshall_Christina@CDCR)
To: [REDACTED]
Cc: [Kernan, Scott@CDCR](mailto:Kernan_Scott@CDCR); [McAuliffe, John@CDCR](mailto:McAuliffe_John@CDCR)
Subject: letter from Scott Kernan, Undersecretary, Operations, California Department of Corrections and Rehabilitation regarding procurement of Sodium Thiopental
Date: Wednesday, August 18, 2010 1:10:04 PM
Attachments: [Drug Enforcement Administration 081820100001.pdf](#)

SENT ON BEHALF OF SCOTT KERNAN, UNDERSECRETARY, OPERATIONS

Please see the attached letter from Scott Kernan, Undersecretary, Operations, California Department of Corrections and Rehabilitation regarding procurement of Sodium Thiopental.

Thank you,

Christina Acosta-Hoshall
Executive Assistant to Terri McDonald, Chief Deputy Secretary, Adult Operations
California Department of Corrections and Rehabilitation
1515 S Street, Suite 502-S
Sacramento, CA 95811

[REDACTED]
[REDACTED]
[REDACTED]

OFFICE OF THE SECRETARY

P.O. Box 942883
Sacramento, CA 94283-0001



August 18, 2010

[REDACTED]
Office of Diversion Control
Drug Enforcement Administration
United States Department of Justice

Dear [REDACTED]

Thank you again for taking the time to talk and assist us in finding a solution in procuring Sodium Thiopental. As you are well aware, Title 21, United States Code (USC) Controlled Substances Act; Section 952; Importation of Controlled Substances; outlined below are exceptions for importation of Scheduled III controlled substances:

- 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.
- 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 title 21.
- 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.

The California Department of Corrections and Rehabilitation (CDCR) finds itself unfortunately meeting all of the above exceptions. As we have discussed, John McAuliffe contacted the Diversion Control Units in San Francisco [REDACTED]; Sacramento [REDACTED]; Oakland (Helpline) and Washington D.C. to get assistance in the procurement of Sodium Thiopental, a scheduled III controlled substance.

Sodium Thiopental is one of three chemicals 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 that there was a shortage of Sodium Thiopental. This shortage was sparked by a manufacturing problem of Sodium Thiopental as well as a shortage of Propofol (a popular anesthetic used by anesthesiologists) which forced anesthesiologists to further deplete supplies of Sodium Thiopental as a substitute. Additionally, CDCR had contact with numerous compounding pharmacies around the

San Francisco Bay area with the same result. CDCR has located a supply of Sodium Thiopental in Pakistan at [REDACTED].

CDCR is requesting help from your office to assist with the process of procuring the Sodium Thiopental through the Import/Export Permit Application. We are requesting for the Warden of San Quentin State Prison be permitted to directly order the Sodium Thiopental from Pakistan for delivery to San Quentin State Prison at the following address:



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

I look forward to talking to you and discussing this matter. If you have any further questions, please contact me at (916) 323-6001.

A handwritten signature in black ink, appearing to read 'S. Kernan'.

SCOTT KERNAN
Undersecretary, Operations
California Department of Corrections and Rehabilitation

cc: Benjamin T. Rice Rice, General Council, Legal Affairs
Terri McDonald, Chief Deputy Secretary, Adult Operations
Vince Cullen, Warden (A), San Quentin State Prison

From: Kernan, Scott@CDCR
To: McAuliffe, John@CDCR
Subject: RE: Import/Export Permit Application
Date: Tuesday, August 17, 2010 1:57:58 PM

thanks. I will hopefully have this signed and out of here today.

Scott

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



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 thiopental. 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 Scheduled 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) 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.

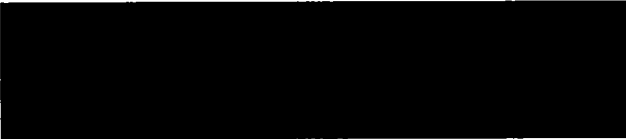
Thiopental is one of three chemicals that is authorized by the State of California for capital punishment by lethal injection. In May 2010, it was reported by the American Society of Health-System Pharmacists (ASHP) that there was a shortage of thiopental. This shortage was sparked by a manufacturing problem of thiopental as well as a shortage of propofol (a popular anesthetic used by

anesthesiologist) which forced anesthesiologist 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;



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



From: Kernan.Scott@CDCR
To: McAuliffe.John@CDCR
Subject: RE: Import/Export Permit Application
Date: Tuesday, August 17, 2010 1:52:34 PM

Great. Thanks.

Scott

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]

Office of Diversion Control
Drug Enforcement Administration
United States Department of Justice

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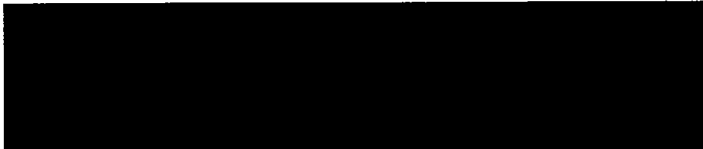
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- During an emergency in which domestic supplies of such substance or drug are found by the Attorney General to be inadequate.
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I look forward to talking to you and discussing this matter.

Scott Kernan
Undersecretary, Operations
California Department of Corrections and Rehabilitation



From: [REDACTED]
To: Kernan, Scott@CDCR; McAuliffe, John@CDCR
Cc: [REDACTED]
Subject: Drug Order
Date: Friday, August 06, 2010 12:01:10 PM

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]

[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]

From: [REDACTED]
To: Kernan, Scott@CDCR
Cc: McAuliffe, John@CDCR
Subject: Re: Per Our Conversation
Date: Wednesday, August 04, 2010 3:43:33 PM

Scott:

We will confirm when orders are placed and keep you and John updated on our progress.

[REDACTED]

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

From: Kernan, Scott@CDCR
To: [REDACTED]
Cc: McAuliffe, John@CDCR
Sent: Wednesday, August 04, 2010 5:22 PM
Subject: RE: Per Our Conversation

[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]

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 – [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: █
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 █
█ to call (he or she) or whoever you designate to finalize the order.

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

From: [Kernan, Scott@CDCR](mailto:Kernan,Scott@CDCR)
To: [McAuliffe, John@CDCR](mailto:McAuliffe,John@CDCR)
Subject: FW: California's Lethal Injection Research
Date: Wednesday, August 04, 2010 3:36:23 PM
Attachments: [execution \(3\).doc](#)

Fyi

Scott

From: Allen, Elizabeth@CDCR
Sent: Wednesday, August 04, 2010 2:51 PM
To: [REDACTED]
Cc: Cate, Matt@CDCR; Kernan, Scott@CDCR
Subject: California's Lethal Injection Research

Good Afternoon [REDACTED]

The attached document provides a brief history and a timeline of the steps the CDCR has taken and will be taking to obtain the drugs need for the intravenous injection. Mr. Scott Kernan, the CDCR Operation Undersecretary has been working on this issue. Please feel free to call him at [REDACTED] if you have any questions and of course, Mr. Cate is also available.

Timeline Pentothal (Sodium Thiopental)

Introduction

Since 1993, California law has authorized capital punishment by lethal injection. This protocol, like those used by the Federal Government and most other states, provides for lethal injection by way of three drugs intravenously injected into the condemned inmate scheduled for execution.

On February 21, 2006, Inmate Michael Morales was scheduled to be executed by lethal injection. Morales' execution was stayed on the challenge that his execution would subject him to unnecessary risk of excessive pain violating the Eighth Amendment to the United States Constitution. Since Morales' stay CDCR has taken it's Lethal Injection protocol through the Administrative Procedures Act (APA) and made it a regulation.

One of these drugs and the first to be injected is Sodium Thiopental. Sodium Thiopental is a fast acting short duration anesthetic supplied as a yellowish, hygroscopic powder in a variety of different containers. The State of California's Lethal Injection Protocol (California Department of Corrections and Rehabilitations: CDCR) calls for a 500 mg/2.5% Kit (25 mg/mL) combination package with contents of 500 mg of Sodium Thiopental powder and a 20 mL flip top vial of sterile water.

Sodium Thiopental (pentothal/thiopental) is a Schedule III controlled substance with a Drug Enforcement Agency (DEA) DEA number of 2100 that can only be procured by a pharmacy and/or medical doctor who has a registered DEA number.

CDCR was forced to focus on hiring a medical doctor from outside the Department from the beginning due to the Receiver refusing to allow CDCR to approach and/or ask CDCR medical staff if they were interested in volunteering to help with executions.

The below timeline will illustrate the efforts CDCR has taken in attempting to procure Sodium Thiopental.

Timeline

- Jan 2007 Lethal Injection Protocol review and revision
- May 2007 Revision completed
- May 2007 Receiver will not allow CDCR to recruit CDCR medical staff
- Nov 2007 New Lethal Injection Facility open for training
- Dec 2007 [REDACTED] contractor for San Quentin State Prison (SQ) pharmacy will not help to procure the Sodium Thiopental
- Jan 2007 CDCR attempts to recruit private doctors to procure drugs
- Apr 2008 Baze v. Rees; United States Supreme Court upholds lethal injection
- Apr 2008 New Federal Receiver will not allow CDCR to recruit medical staff
- Oct 2008 CDCR attempts to recruit [REDACTED] doctors
- Nov 2008 CDCR attempts to recruit [REDACTED] doctors
- Dec 2008 CDCR attempts to seek proposal from Governor's Office to procure

- drugs from [REDACTED]
- Feb 2009 CDCR attempts to recruit doctors from CDCR Adult Paroles Division
 - Apr 2009 APA Filing
 - May 2009 Secretary CDCR sends second request to Federal Receiver to allow to recruit
 - Jan 2010 Federal Receiver approached again
 - Apr 2010 Federal Receiver allows CDCR to recruit medical staff and use SQ pharmacy
 - May 2010 Federal Receiver will not allow CDCR to order drugs from SQ pharmacy
 - May 2010 CDCR reaches out to [REDACTED]
 - May 2010 CDCR recruits three doctors with DEA #'s
 - Jun 2010 Federal Receiver attempts to locate a source to procure Sodium Thiopental. Manufacturer (Hospira) has drug on back order with no predicted new date for availability. First notice to CDCR that Sodium Thiopental has a national shortage.
 - Jun 2010 Federal Receiver's Office gives CDCR list of [REDACTED] possible vendors.
 - Jun 2010 Contacted [REDACTED] validated there is shortage
 - Jun 2010 [REDACTED] validated there is shortage
 - Jun 2010 [REDACTED] stated all suppliers of Sodium Thiopental in the United States do not have a current inventory and have no plans nor a date as to when they (the suppliers) will be producing the drug.
 - Jul 2010 [REDACTED] calls CDCR and states due to moral and ethical issues will not help CDCR in procuring any drugs for execution.
 - Jul 2010 CDCR researched possible alternatives; Import from Pakistan; [REDACTED]
 - Jul 2010 Contacted DEA for assistance
 - July 2010 Secretary contacts [REDACTED] who agrees to help locate drug.
 - Jul 2010 CDCR finds out for first time that Pancuronium Broide has had a national recall
 - July 2010 Called [REDACTED] for assistance.
 - Aug 2010 DEA working on import exemption for CDCR to allow overseas shipment.
 - Aug 2010 CDCR searching for imports to receive orders
 - Aug 2010 [REDACTED] looking for international importers
 - Notified today that they found international supply. Working on getting ordered. No confirmed date, but anticipating within 30 days. Formal order with shipping instructions and billing data provided.

From: Kernan, Scott@CDCR
To: [REDACTED]
Cc: McAuliffe, John@CDCR
Subject: RE: Per Our Conversation
Date: Wednesday, August 04, 2010 3:22:08 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]

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 – [REDACTED]
[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] call (he or she) or whoever you designate to finalize the order.

[REDACTED]

[REDACTED]

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

From: [Gaddi, Kathy@CDCR](mailto:Gaddi,Kathy@CDCR)
To: [McAuliffe, John@CDCR](mailto:McAuliffe,John@CDCR)
Subject: RE: Timeline
Date: Wednesday, August 04, 2010 1:46:08 PM

Got it.

Kathy Gaddi

Executive Assistant to Scott Kernan

Undersecretary, Operations



From: McAuliffe, John@CDCR
Sent: Wednesday, August 04, 2010 1:36 PM
To: Gaddi, Kathy@CDCR
Cc: Kernan, Scott@CDCR
Subject: FW: Timeline

Kathi

Here is the timeline....sorry for the product.....call me if needed....

John

From: Kernan, Scott@CDCR [<mailto:Scott.Kernan@cdcr.ca.gov>]
Sent: Wednesday, August 04, 2010 12:38 PM
To: McAuliffe, John@CDCR
Cc: Gaddi, Kathy@CDCR
Subject: FW: Timeline

I added a couple of lines to this. Need quick and probably need to get to Gaddi. 2 pm is my target. << File: execution.doc >>

From: Gaddi, Kathy@CDCR
Sent: Wednesday, August 04, 2010 12:17 PM
To: Kernan, Scott@CDCR
Subject: FW: Timeline

Kathy Gaddi

Executive Assistant to Scott Kernan

Undersecretary, Operations

[REDACTED]

From: Kernan, Scott@CDCR
Sent: Thursday, July 29, 2010 5:40 PM
To: [REDACTED]@CDCR; Duffy, Brian@CDCR
Subject: FW: Timeline

From: Duffy, Brian@CDCR
Sent: Thursday, July 29, 2010 5:40:22 PM
To: Kernan, Scott@CDCR
Subject: FW: Timeline

Auto forwarded by a Rule

John provided the timelines. Not what we needed, but I'll see if I can re-write tomorrow morning.

Hey, isn't [REDACTED] over by Pakistan? Maybe he can hop over and help out.

From: McAuliffe, John@CDCR
Sent: Thursday, July 29, 2010 3:24 PM
To: Duffy, Brian@CDCR
Subject: Timeline

Brain

FYI

John << File: Timeline Pentothal.doc >>

From: Kernan, Scott@CDCR
To: McAuliffe, John@CDCR
Cc: Gaddi, Kathy@CDCR
Subject: FW: Timeline
Date: Wednesday, August 04, 2010 12:38:09 PM
Attachments: [Timeline_Pentothal.doc](#)

I added a couple of lines to this. Need quick and probably need to get to Gaddi. 2 pm is my target.+

From: Gaddi, Kathy@CDCR
Sent: Wednesday, August 04, 2010 12:17 PM
To: Kernan, Scott@CDCR
Subject: FW: Timeline

Kathy Gaddi

Executive Assistant to Scott Kernan

Undersecretary, Operations

██████████

From: Kernan, Scott@CDCR
Sent: Thursday, July 29, 2010 5:40 PM
To: ██████████@CDCR; Duffy, Brian@CDCR
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Sent: Thursday, July 29, 2010 5:40:22 PM
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John provided the timelines. Not what we needed, but I'll see if I can re-write tomorrow morning.

Hey, isn't ██████████ over by Pakistan? Maybe he can hop over and help out.

Timeline Pentothal (Sodium Thiopental)

Introduction

Since 1993, California law has authorized capital punishment by lethal injection. This protocol, like those used by the Federal Government and most other states, provides for lethal injection by way of three drugs intravenously injected into the condemned inmate scheduled for execution.

On February 21, 2006, Inmate Michael Morales was scheduled to be executed by lethal injection. Morales' execution was stayed on the challenge that his execution would subject him to unnecessary risk of excessive pain violating the Eighth Amendment to the United States Constitution. Since Morales' stay CDCR has taken it's Lethal Injection protocol through the Administrative Procedures Act (APA) and made it a regulation.

One of these drugs and the first to be injected is Sodium Thiopental. Sodium Thiopental is a fast acting short duration anesthetic supplied as a yellowish, hygroscopic powder in a variety of different containers. The State of California's Lethal Injection Protocol (California Department of Corrections and Rehabilitations: CDCR) calls for a 500 mg/2.5% Kit (25 mg/mL) combination package with contents of 500 mg of Sodium Thiopental powder and a 20 mL flip top vial of sterile water.

Sodium Thiopental (pentothal/thiopental) is a Schedule III controlled substance with a Drug Enforcement Agency (DEA) DEA number of 2100 that can only be procured by a pharmacy and/or medical doctor who has a registered DEA number. The below timeline will illustrate the efforts CDCR has taken in attempting to procure Sodium Thiopental.

Timeline

- Jan 2007 Lethal Injection Protocol review and revision
- May 2007 Revision completed
- Nov 2007 New Lethal Injection Facility used for training
- Nov 2007 Federal Receiver will not allow CDCR to recruit CDCR medical staff
- Dec 2007 [REDACTED] contractor for San Quentin State Prison (SQ) pharmacy will not help to procure the Sodium Thiopental
- Jan 2007 CDCR attempts to recruit private doctors to procure drugs
- Apr 2008 Baze v. Rees; United States Supreme Court upholds lethal injection
- Apr 2008 New Federal Receiver will not allow CDCR to use any medical staff
- Oct 2008 CDCR attempts to recruit [REDACTED] doctors
- Nov 2008 CDCR attempts to recruit [REDACTED] doctors
- Dec 2008 CDCR attempts to seek proposal from Governor's Office to procure drugs from [REDACTED]
- Feb 2009 CDCR attempts to recruit doctors from CDCR Adult Paroles Division
- Apr 2009 APA Filing
- May 2009 Secretary CDCR sends second request to Federal Receiver
- Jan 2010 Federal Receiver approached again

- **Apr 2010** Federal Receiver allows CDCR to recruit medical staff and use SQ pharmacy
- **May 2010** Federal Receiver will not allow CDCR to order drugs from SQ
- **May 2010** CDCR reaches out to [REDACTED]
- **May 2010** CDCR recruits three doctors with DEA #'s
- **Jun 2010** Federal Receiver attempts to locate a source to procure Sodium Thiopental. Manufacturer (Hospira) has drug on back order with no predicted new date for availability.
- Jun 2010** Federal Receiver's Office gives CDCR list of Compounding Pharmacies as possible vendors.
- **Jun 2010** Contacted [REDACTED] validated there is shortage
- **Jun 2010** [REDACTED] validated there is shortage
- Jun 2010** [REDACTED] stated all suppliers of Sodium Thiopental in the United States do not have a current inventory and have no plans nor a date as to when they (the suppliers) will be producing the drug.
- Jul 2010** CDCR researched possible alternatives; Import from Pakistan; [REDACTED]
- **Jul 2010** Contacted DEA for assistance

[REDACTED] [REDACTED]
[REDACTED]hn@CDCR
Thursday, July 29, 2010 3:24 PM
To: Duffy, Brian@CDCR
Subject: Timeline

[REDACTED]
Brain
FYI
John

From: Kernan, Scott@CDCR
To: McAuliffe, John@CDCR
Subject: FW: Per Our Conversation
Date: Wednesday, August 04, 2010 11:57:23 AM
Attachments: California Drugs August 2010.xls

FYI. Please let me know

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] [REDACTED] to call (he or she) or whoever you designate to finalize the order.

[REDACTED]

[REDACTED]

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

Product	Status	Cost
avulon romide 5 1 ml	manufacturer backorder until mid August	1. 5
entothal mg 5 doses	manufacturer backorder until mid ctober	. 5
entothal 5 mg 5 doses	manufacturer backorder until mid ctober	. 5
entothal 1 mg 5 doses	manufacturer backorder until mid ctober	1, .
otassium hloride E	available 5 ml	.5
otassium hloride 1 E	available 5 5ml	11.
otassium hloride E	available 5 1 ml	.5
otassium hloride E	available 5 15ml	1 .5
otassium hloride E	available 5 ml	.5

All costs stated above are for a pack of 5 vials or syringes.

F A has some information on the shortage for avulon and entothal... scroll down the

I searched for a reason for TE A'a recall and only found this e planation from several s

REASON

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

<http://www.fda.gov/rugs/rugSafety/rugShortages/ucm5.htm>

Let me know if you need anything else. Thanks



Storage
stable up to months at room temp 5- , recommend refrigerated -
reconstituted solutions remain stable for days at room temperature, days if refrigerated. roduct can be stored at room temperature until mi ed.
entothal is a controlled substance, Schedule III.
Store at room temp until mi ed. se w/in hrs after/if mi ed.

list on this website, drugs are listed alphabetically. It looks like the avulon shortage is due to TE A withdraw
sources

y do not meet specification for related substances.

From: Kernan, Scott@CDCR
To: McAuliffe, John@CDCR
Subject: RE: Timeline
Date: Monday, August 02, 2010 3:41:53 PM

Coming from me. Thanks for taking shot at narrative. I spoke with [REDACTED] and we are doing the official order this week for all three drugs and for 6 executions. Probably need your help with some details. Let you know.

Scott

From: McAuliffe, John@CDCR
Sent: Monday, August 02, 2010 2:12 PM
To: Kernan, Scott@CDCR
Subject: RE: Timeline

Brian asked for bullets but I can do narrative....coming from you, Undersecretary, I agree narrative.

From: Kernan, Scott@CDCR
Sent: Monday, August 02, 2010 2:10 PM
To: McAuliffe, John@CDCR
Subject: Re: Timeline

Don't you thing this should be in narrative formally asking for exemption?

From: McAuliffe, John@CDCR
To: Kernan, Scott@CDCR
Sent: Mon Aug 02 13:49:06 2010
Subject: FW: Timeline

Scott

Look at attached if you approve I will forward email to [REDACTED]He called me back will be in office tomorrow....

John

From: McAuliffe, John@CDCR
Sent: Thursday, July 29, 2010 3:24 PM
To: Duffy, Brian@CDCR
Subject: Timeline

Brain

FYI

John <<Timeline Pentothal.doc>>

From: [Kernan, Scott@CDCR](mailto:Kernan,Scott@CDCR)
To: [McAuliffe, John@CDCR](mailto:McAuliffe,John@CDCR)
Subject: Re: Timeline
Date: Monday, August 02, 2010 2:10:26 PM

Don't you thing this should be in narrative formally asking for exemption?

From: McAuliffe, John@CDCR
To: Kernan, Scott@CDCR
Sent: Mon Aug 02 13:49:06 2010
Subject: FW: Timeline

Scott

Look at attached if you approve I will forward email to [REDACTED]He called me back will be in office tomorrow....

John

From: McAuliffe, John@CDCR
Sent: Thursday, July 29, 2010 3:24 PM
To: Duffy, Brian@CDCR
Subject: Timeline

Brain

FYI

John <<Timeline Pentothal.doc>>

From: [REDACTED]
To: McAuliffe, John@CDGR
Subject: Drug shortage putting hold on lethal injections
Date: Monday, August 02, 2010 11:49:27 AM



You have received a link to azcentral.com content from
[REDACTED]
(The email address of the sender has not been verified.)

**Here's the article that we talked about. Let me know
when this week you w**

To access the content, click the link below or copy and paste
the full address into your Web browser:

Drug shortage putting hold on lethal injections

[http://www.azcentral.com/php-
bin/clicktrack/email.php/9387167](http://www.azcentral.com/php-bin/clicktrack/email.php/9387167)

From: McAuliffe, John@CDCR
To: Kernan, Scott@CDCR
Subject: Fw: ATTN: [REDACTED]
Date: Thursday, October 07, 2010 10:08:37 AM

FYI
John

From: [REDACTED]
To: McAuliffe, John@CDCR
Sent: Thu Oct 07 09:48:06 2010
Subject: [REDACTED]

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.



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>
To: [REDACTED]
Cc: "Kernan, Scott@CDCR" <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

From: [REDACTED]

Sent: Wednesday, October 06, 2010 1:34 AM

To: McAuliffe, John@CDCR

Subject: [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: McAuliffe, John@CDCR
To: [REDACTED]
Cc: Kernan, Scott@CDCR
Subject: [REDACTED]
Date: Wednesday, October 06, 2010 10:38:00 AM

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

From: [REDACTED]
Sent: Wednesday, October 06, 2010 1:34 AM
To: McAuliffe, John@CDCR
Subject: [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: McAuliffe, John@CDCR
To: Kernan, Scott@CDCR
Subject: [REDACTED]
Date: Wednesday, October 06, 2010 9:31:45 AM

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: [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: [REDACTED]

FYI

From: [REDACTED]
To: McAuliffe, John@CDCR
Sent: Wed Oct 06 01:34:07 2010
Subject: [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: McAuliffe, John@CDCR
To: Kernan, Scott@CDCR
Subject: [REDACTED]
Date: Wednesday, October 06, 2010 8:50:07 AM

FYI

From: [REDACTED]
To: McAuliffe, John@CDCR
Sent: Wed Oct 06 01:34:07 2010
Subject: [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: McAuliffe, John@CDCR
To: [REDACTED]
Cc: Kernan, Scott@CDCR
Subject: [REDACTED]
Date: Tuesday, October 05, 2010 11:08:00 AM

[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: McAuliffe, John@CDCR
To: [REDACTED]
Cc: Kernan, Scott@CDCR
Subject: Telephone call this AM
Date: Tuesday, October 05, 2010 10:33:00 AM

[REDACTED]

Sir;
Thank you for talking to me this AM. Please contact me by email and/or cell [REDACTED] on any question you may have.
John McAuliffe

From: McAuliffe, John@CDCR
To: Kernan, Scott@CDCR
Subject: Re: DEA Registered Importers of Thiopental
Date: Monday, October 04, 2010 3:16:40 PM

Scott

I can work on this list early Tuesday AM and give you full update prior to our meeting on Tuesday at 1:30. I will start working on phone #'s and contact person now.

John

From: Kernan, Scott@CDCR
To: McAuliffe, John@CDCR
Sent: Mon Oct 04 14:59:51 2010
Subject: FW: DEA Registered Importers of Thiopental

For our records.

Scott

From: [REDACTED]
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]
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

[REDACTED]

[REDACTED]

From: McAuliffe, John@CDCR
To: [REDACTED]
Subject: Fw: DEA Registered Importers of Thiopental
Date: Monday, October 04, 2010 2:53:57 PM
Attachments: [Importers of Thiopental.xml](#)

From: Kernan, Scott@CDCR
To: McAuliffe, John@CDCR
Cc: Duffy, Brian@CDCR
Sent: Mon Oct 04 14:50:26 2010
Subject: FW: DEA Registered Importers of Thiopental

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]
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
[REDACTED]
[REDACTED]