

## Another manufacturer blocks drug for execution use (Update)

September 27 2012, by Alan Scher Zagier

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(AP)—A manufacturer of the anesthetic blamed for Michael Jackson's death said Thursday it won't sell propofol for use in U.S. executions, a setback for Missouri and other states looking for an alternative after other drug makers also objected to their products' use in lethal injections.

Drug maker Fresenius Kabi USA, a German company with U.S. offices based in Schaumburg, Illinois, is one of only two domestic suppliers of propofol, and is the only one currently distributing in the U.S. Earlier this year, Missouri adopted a new single-drug execution method that would make it the first state to use propofol on death-row inmates. Other states also have considered incorporating the drug into their lethal injections.

Fresenius Kabi spokesman Matt Kuhn confirmed to The Associated Press that the company told its distributors in late August that such usage is "inconsistent" with the company's mission. It's also forbidden under European Union laws to export drugs that could be used in executions.

"Fresenius Kabi objects to the use of its products in any manner that is not in full accordance with the medical indications for which they have been approved by health authorities," a company statement reads.

"Consequently, the company does not accept orders for propofol from any departments of correction in the United States. Nor will it do so."

Most of the 33 U.S. states with the death penalty had long used sodium

thiopental as the first of a three-drug combination administered during lethal injections. But that drug also became unavailable when its European supplier acknowledged pressure from death penalty opponents and stopped selling it for executions.

Supplies mostly ran out or expired, forcing states to consider alternatives. Most states have retained the three-drug method but turned to pentobarbital, a barbiturate used to treat anxiety and convulsive disorders such as epilepsy, as a replacement for sodium thiopental. Pentobarbital supplies also have shrunk after its manufacturer said it would try to prevent its use in executions.

A spokeswoman for the Missouri Attorney General's office declined comment Thursday, and Department of Corrections officials didn't respond to several requests seeking comment about Fresenius Kabi's decision. In August, the state Supreme Court declined Attorney General Chris Koster's request to set execution dates for six death-row inmates, calling it "premature" pending the uncertainty over propofol's availability.

Richard Dieter, executive director of the Washington-based Death Penalty Information Center, called the drug maker's decision the latest obstacle to a capital punishment procedure that until several years ago had been virtually unchanged for more than three decades.

"States have chosen a medical model. And in general, the medical profession is not involved in things other than life-preserving acts," he said. "It's going to be an ongoing problem. States might have to keep changing (drug protocols), or come up with a whole new (execution) method."

In an Aug. 28 letter to health care providers, a Fresenius Kabi USA executive vice president said the company will now "more tightly control

access" by wholesalers and distributors to propofol, which is marketed by subsidiary APP under the brand name Diprivan. The drug will not be sold to retail pharmacies or third-party distributors "to reduce the possibility that propofol reaches correctional facilities," wrote Scott Meacham, also the company's chief commercial officer.

Hospira, the only other company that distributes propofol in the U.S., has exhausted its supply and doesn't expect to release the drug for further sale until at least October or November. The Lake Forest, Illinois-based company also has come out with strong opposition to the use of its products for capital punishment, which spokesman Dan Rosenberg reiterated Thursday. Rosenberg declined to comment about whether Hospira also would block the sale of the drug to corrections departments when the new supply is released.

The rate of executions in Missouri and the rest of the country has slowed considerably as the supply of lethal injection drugs dried up. The U.S. had 98 executions in 1999 but fewer than half that amount last year. Missouri executed 66 convicted killers between 1989—the year executions resumed in the state—and 2005, but only two inmates have been put to death since.

Missouri's proposed use of propofol also has come under scrutiny because the state's written execution protocol does not require a physician to be part of the execution team. Propofol typically is administered by an anesthesiologist or a nurse anesthetist under direct physician supervision.

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Citation: Another manufacturer blocks drug for execution use (Update) (2012, September 27) retrieved 25 April 2024 from

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