

Industry Opposition to the Misuse of Medicines in Executions

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Over the last nine years, more than 50 global pharmaceutical companies have taken action to prevent the misuse of their medicines in lethal injection executions.

Today, every pharmaceutical manufacturer of FDA-approved medicines sought by executing states for use in lethal injection executions opposes the use of their medicines in executions and has taken steps to prevent this.

Both manufacturers and distributors have taken robust action on this issue, releasing public statements, implementing restricted distribution controls, and pursuing other engagement to help prevent the misuse of medicines in executions.

This briefing provides a selection of public statements by healthcare companies and industry associations opposing the misuse of their products in executions.

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Abbott Laboratories

December 2001

“

Abbott does not support the use of Pentothal in capital punishment. In fact, [we] communicated with departments of corrections in the United States to request that this product not be used in capital punishment procedures.”



AbbVie Inc.

November 2017

“

AbbVie’s mission is to address the world’s toughest health challenges. We focus on discovering, developing and delivering medicines where we have proven expertise. We strive to make a remarkable impact on the lives of patients. These principles are reflected in our company’s core values. As such, AbbVie strongly objects to any potential use of our products in lethal injection protocols for capital punishment.

We are committed to ensuring our products remain accessible to healthcare providers and patients who depend on them.”



Akorn, Inc.

March 2015

“

The employees of Akorn are committed to furthering human health and wellness through our vast portfolio of products. In the interest of promoting these values, Akorn strongly objects to the use of its products to conduct or support capital punishment through lethal injection or other means. To prevent the use of our products in capital punishment, Akorn will not sell any product directly to any prison or other correctional institution and we will restrict the sale of known components of lethal injection protocols to a select group of wholesalers who agree to use their best efforts to keep these products out of correctional institutions.”



Alvogen, Inc.

June 2018

“

Alvogen endorses the use of its products in accordance with FDA-approved indications. To this end, Alvogen has undertaken controls to avoid diversion of [its products] for use in execution protocols. In furtherance of this effort, Alvogen does not accept direct orders from prison systems or departments of correction. In addition, Alvogen is working to ensure that its distributors and wholesalers do not resell, either directly or indirectly [Alvogen products], to prison systems or departments of correction.”



American Regent Inc.

August 2018

“

American Regent, Inc. is dedicated to the development, manufacture and sales of generic and branded injectable medications to improve and save lives of patients. All products that we market are intended solely for use consistent with approved labeling and applicable medical standards of care.

American Regent objects to the use of any of its products for lethal injection. Punitive use of our medications is inconsistent with our values and mission of improving lives, and contrary to the intended labeled use for any of our products.”



AmerisourceBergen Corp.

November 2017

“

We buy pharmaceuticals directly from manufacturers, and we adhere to their restrictions on the distribution of their products, including those that prohibit the sale of certain products to correctional facilities. We routinely audit our compliance with manufacturer contracts and policies.”



Association for Accessible Medicines (AAM)

July 2018

“

The Association for Accessible Medicines (“AAM”) is a nonprofit, voluntary association representing manufacturers and distributors of generic and biosimilar medicines, active pharmaceutical ingredients, as well as suppliers of other goods and services to the generic and biosimilar pharmaceutical industry. AAM’s members provide patients with access to generic and biosimilar medicines that are as safe and effective as their brand-name counterparts at a substantially more affordable price . . . AAM takes no position on the propriety of capital punishment. But AAM and its members strongly oppose the use of their medicines—which are researched and developed to enhance patient health—to carry out executions. Indeed, many pharmaceutical companies, including numerous AAM members, prohibit the sale of their products for the purpose of lethal injection, either directly or indirectly through distributors.



Association for Accessible Medicines (AAM)

July 2018

“

These AAM members recognize that the diversion of their medicines for use in execution protocols is contrary to their business interests as well as their ethical duties. Using drug products for lethal injection is inconsistent with the rigorous process for studying and approving prescription drugs in this country, as administered by the U.S. Food and Drug Administration (“FDA”). The drugs that are used for lethal injection— such as sedatives, anticonvulsants, barbiturates, muscle relaxants, and potassium supplements—are approved to treat or aid in the treatment of particular health conditions. The off-label use of those drugs to kill rather than to heal is a perversion of their therapeutic purpose, which AAM firmly opposes.”



Athenex, Inc.

November 2017

“

Athenex is dedicated to improving the health and well-being of patients by supplying an extensive portfolio of injectable pharmaceutical products. Athenex does not want any of our products used in capital punishment. Since inception of marketing these products, Athenex implemented appropriate distribution controls and other measures with our wholesaler partners to prevent our products being used in capital punishment. Athenex does not accept orders from correctional facilities and prison systems for products believed to be part of certain states' lethal injection protocols.

Further, Athenex distributors and wholesalers have agreements with Athenex not to sell or distribute any such products to these facilities. Athenex does not distribute these products through wholesalers unwilling to implement distribution control to prevent capital punishment.”



Athenex Pharma Solutions, LLC

November 2017

“

Athenex is dedicated to improving the health and well-being of patients by supplying an extensive portfolio of injectable pharmaceutical products. Athenex does not want any of our products used in capital punishment. Since inception of marketing these products, Athenex implemented appropriate distribution controls and other measures with our wholesaler partners to prevent our products being used in capital punishment. Athenex does not accept orders from correctional facilities and prison systems for products believed to be part of certain states' lethal injection protocols.

Further, Athenex distributors and wholesalers have agreements with Athenex not to sell or distribute any such products to these facilities. Athenex does not distribute these products through wholesalers unwilling to implement distribution control to prevent capital punishment.”



AuroMedics Pharma LLC

July 2017

“

AuroMedics Pharma LLC is committed to improving the lives of patients treated by healthcare professionals throughout the United States. In order to help make certain that patients have access to our products for their intended uses while ensuring our products are not used in capital punishment, AuroMedics Pharma LLC has implemented distribution controls. In particular, AuroMedics Pharma LLC will not accept orders from correctional facilities and prison systems who intend to use products for lethal injection. AuroMedics Pharma LLC will also request distributors and wholesalers not to sell or distribute these products to facilities which are believed to be using them for lethal injection.”



Baxter International, Inc.

May 2017

“

Baxter is a healthcare company with a stated mission to save and sustain lives. For more than 85 years, we have offered products and therapies that advance patient care. To that end, Baxter has repeatedly expressed its longstanding opposition to the potential use of any of its products in lethal injection protocols for capital punishment, where such use is clearly outside of approved labeling and medical standards of care and directly conflicts with our corporate mission.

Our customer contracts prohibit the use, resale or distribution of our products for capital punishment, while helping to ensure our medically necessary products remain available to clinicians to save and sustain patient lives.”



B. Braun Melsungen AG

October 2015

“

We do not sell concentrated Potassium Chloride or make it available to any recipient who intends to use it for other than strictly therapeutic applications.

B. Braun objects to the use of its products in any manner that is not in full accordance with the approved indications. Furthermore, we would like to refer to our Compliance regulations. They apply to our distributors as well.”

Cardinal Health

March 2016

“

[A] a number of manufacturers have informed Cardinal Health that they would no longer permit certain items to be sold to U.S. state prisons, penitentiaries, jails or other incarceration facilities and other customers that they deem ‘unqualified.’ Cardinal Health has agreed to abide by the distribution restrictions set forth in order to remain an authorized distributor for these important products. Cardinal Health no longer distributes these products to state prisons, penitentiaries, jails or other incarceration facilities or other customers defined by the manufacturers as “non-qualified customers.”





Custopharm, Inc

December 2017

“

Custopharm Inc. (dba Leucadia Pharmaceuticals) is dedicated to improving the outcomes of patients treated by doctors, nurses, pharmacists and other healthcare professionals throughout the United States by supplying needed pharmaceutical products. To help ensure that our products are not used in capital punishment, Custopharm, Inc. is implementing appropriate distribution controls and other necessary measures. These include not accepting orders from correctional facilities and prison systems for products believed to be part of lethal injection protocols and asking our distributors and wholesalers to make commitments to not sell or distribute any such products to these facilities.”



Dash Pharmaceuticals

September 2019

“

Dash objects to the use of its products in capital punishment. While Dash takes no position on the death penalty itself, our products were developed to improve patients’ lives and their use in executions is fundamentally counter to this. To ensure our products are not purchased for this purpose, Dash has imposed a system of strict distribution controls designed to prohibit the sale of its medicines to correctional facilities or otherwise for use in connection with lethal injection executions. These controls align with prevailing industry standards followed by generic drug companies and reflect our company’s policy regarding the use of our medications. Specifically, Dash has entered contractual agreements with distributors which stipulate that the products in question are to not to be sold to any correctional entity without specific approval from Dash.”



Dr. Reddy's Laboratories Ltd

January 2019

“

Dr. Reddy's is committed to providing affordable and innovative medicines for healthier lives. To that end, Dr. Reddy's neither condones nor supports the off-label use or misuse of its drugs. In the strongest possible terms, Dr. Reddy's objects to the use of any of its products to facilitate or otherwise aid lethal injections. Consistent with this position, Dr. Reddy's uses distribution controls to market Propofol Injectable Emulsion, USP. Dr. Reddy's will not accept orders from correctional facilities and prison systems whose intended use of the product is to aid in lethal injection. We require the same commitment from our wholesalers and distributors.”



Fresenius Kabi LLC

August 2012, updated October 2018

“

Fresenius Kabi opposes the use of our products in lethal injection, and along with other major drug manufacturers, we have established an Authorized Distribution program for certain restricted products. This program is designed to assure the availability of key medications for patients. Our medicines play a vital role in patient care. In keeping with our mission of “caring for life,” Fresenius Kabi is committed to distribution controls that help assure restricted products are used for proper medical purposes.

While Fresenius Kabi takes no position on capital punishment, the use of our products for lethal injection is contrary both to our mission and to the FDA-approved indications for, and labelling of, our products. Fresenius Kabi therefore does not sell, or allow the sale of, certain drugs to prisons or correctional facilities.

The majority of the company’s injectable medicines are manufactured in the United States, however for those made in Europe, the unauthorized use of our medications for lethal injection could also lead to sanctions by the European Union (EU). This in turn could threaten the U.S. supply of important drugs, potentially putting patients at risk.”



Fresenius Kabi Compounding, LLC

October 2018

“

Fresenius Kabi opposes the use of our products in lethal injection, and along with other major drug manufacturers, we have established an Authorized Distribution program for certain restricted products. This program is designed to assure the availability of key medications for patients. Our medicines play a vital role in patient care. In keeping with our mission of “caring for life,” Fresenius Kabi is committed to distribution controls that help assure restricted products are used for proper medical purposes.

While Fresenius Kabi takes no position on capital punishment, the use of our products for lethal injection is contrary both to our mission and to the FDA-approved indications for, and labelling of, our products. Fresenius Kabi therefore does not sell, or allow the sale of, certain drugs to prisons or correctional facilities.

The majority of the company’s injectable medicines are manufactured in the United States, however for those made in Europe, the unauthorized use of our medications for lethal injection could also lead to sanctions by the European Union (EU). This in turn could threaten the U.S. supply of important drugs, potentially putting patients at risk.”



Ganpati Exim Pvt Ltd

March 2012

“

We at Ganpati Exim are committed to providing access to medicines for the purposes of improving the lives of patients around the world. We are deeply opposed to the use of medicines in killing prisoners and wish to have no part in facilitating capital punishment in the USA or elsewhere. We never indulge in this type of medicines which takes HUMAN LIFE and will never in Future also.”



Gland Pharma Limited

October 2015

“

Gland makes its products to enhance and save the lives of patients worldwide. Gland does not support the use of any of its products for the purpose of capital punishment.”



GlaxoSmithKline plc

February 2018

“

As a science-led healthcare company, we believe our medicines should be used consistent with our mission to ‘help people do more, feel better, live longer.’

Currently, we are not aware of any GSK products being included in any lethal injection protocol; however, in keeping with our mission, we would be opposed to such a use.”

hikma.

Hikma Pharmaceuticals

May 2013, updated June 2018

“

Hikma aims to improve lives by providing patients with access to high quality, affordable medicines. Our medicines are used thousands of times a day around the world to treat illness and save lives.

We object in the strongest possible terms to the use of any of our products for the purpose of capital punishment. Not only is it contrary to the intended label use(s) for the products, but it is also inconsistent with our values and mission of improving lives by providing quality, affordable healthcare to patients.

While none of our products should ever be used for the purpose of capital punishment, in the table below, we have identified certain products that carry heightened risk of misuse for lethal injection protocols. Accordingly, to prevent these products from being used for the purpose of capital punishment, we will not accept orders for these products directly from any Departments of



Hikma Pharmaceuticals

May 2013, updated June 2018

Correction or correctional facilities in the United States, unless accompanied by an original, raised seal copy of an affidavit signed by the state attorney general (or governor), certifying under penalty of perjury that the product(s) will not be used for capital punishment. Further, we will only sell these same drugs to pre-selected commercial customers who agree that they will not then sell or provide them to Departments of Corrections/correctional facilities, or to secondary distributors or retail pharmacies.

We vigorously monitor the distribution of these products and support industry serialization efforts that will help enhance these controls while continuing to promote our values and mission.

Further, transparency is one of our core values, and as such we object to attempts by any entity, person or state to obscure or hide the source of products for lethal injection. It is imperative that we are not impeded from protecting patient health and the integrity of our products and our supply chain.



Jiangsui Hengrui Medicine Co.

September 2017

“

Jiangsui Hengrui is opposed to the misuse of medicines in executions.”



Johnson & Johnson

August 2017

“

At Janssen, we are dedicated to preventing, intercepting, treating and curing some of the most devastating and complex diseases of our time. For nearly 60 years, Janssen scientists have devoted their lives to discovering and developing life-enhancing and life-saving medicines, and we continue that work today.

Etomidate is a widely used intravenous anesthetic agent used in hospitals. It was discovered by Janssen scientists in the 1960s, and it is now off patent and distributed as a generic product by a number of companies worldwide. We do not distribute etomidate in North America, and in 2016 we divested the product in the rest of the world for strategic business reasons.

Janssen discovers and develops medical innovations to save and enhance lives. We do not support the use of our medicines for indications that have not been approved by regulatory authorities, such as the US FDA. We do not condone the use of our medicines in lethal injections for capital punishment.”



Jonakayem Pharma Formulation (OPC) Pvt. Ltd.

April 2011

“

In view of the sensitivity involved with sale of our Thiopental Sodium to various Jails/Prisons in the USA and as alleged to be used for the purpose of Lethal Injection, we voluntarily declare that we as Indian Pharma Dealer who cherish the Ethos of Hinduism (A believer even in non-livings as the creation of God) refrain ourselves in selling this drug where the purpose is purely for Lethal Injection and its misuse.”



Lilly Healthcare

April 2017

“

Lilly does not supply our medicines for use in lethal injections, and we have not engaged on the issue with state legislators.”



Lundbeck A/S

August 2011

“

[Lundbeck] is opposed to the use of its products for the purpose of capital punishment. Use of our products to end lives contradicts everything we're in business to do – provide therapies that help improve people's lives. Lundbeck adamantly opposes the distressing misuse of our product in capital punishment. Since learning about the misuse we have vetted a broad range of remedies – many suggested during ongoing dialogue with external experts, government officials, and human rights advocates. After much consideration, we have determined that a restricted distribution system is the most meaningful means through which we can restrict the misuse of Nembutal.”



McKesson Corporation

October 2016, updated September 2018

“

We comply with manufacturer requirements for handling and distributing products. In some cases, we have contracts with manufacturers that restrict the sale of certain medicines to certain customers, such as prison systems and others, for lethal injections. McKesson is committed to helping manufacturers implement their policies in this area. The needs and requirements of manufacturers vary. As a result, our contractual commitments, controls and processes vary by manufacturer. McKesson has processes and systems to enable manufacturers to validate McKesson’s performance against our contractual arrangements.”



Mylan N.V.

October 2015

“

Mylan is committed to setting new standards in healthcare and providing access to more affordable medicines for the world's 7 billion people. We are dedicated to upholding the highest standards of quality and integrity in everything we do.

Mylan only distributes its products through legally compliant channels. All of its products are intended for prescription by healthcare providers consistent with approved labeling and applicable medical standards of care.

No Mylan products are approved for, labeled for, or marketed for use in lethal injections. Mylan does not distribute products that could be so used to prisons, nor does the company condone its products being distributed by any third party for use outside of the approved labeling or applicable standards of care. Mylan has taken steps to prevent the misuse of its products.



Mylan N.V.

October 2015

Specifically, Mylan has implemented restricted distribution protocols for certain products to help preclude their unauthorized use for capital punishment.

Our distribution restrictions limit the sale of such products to a select group of direct customers and prohibit their resale to correctional facilities for use in lethal injections or to any other unauthorized purchasers. Customers have been informed that if they do not comply with these restrictions, Mylan will no longer supply them with these products. Mylan takes this matter seriously and will continue to work with distributors and other interested parties to ensure that its products are used appropriately.”



Naari AG

November 2011

“

I am shocked and appalled by this news. Naari did not supply these medicines directly to the Nebraska Department of Correctional Services and is deeply opposed to the use of the medicines in executions.”

[Letter from Naari CEO to Chief Justice Heavican of the Nebraska Supreme Court]



Par Pharmaceutical, Inc.

May 2014

“

Brevital [methohexital sodium] is a medically important anesthetic that physicians and hospital pharmacies have relied upon for more than 50 years. The state of Indiana’s proposed use of Brevital is inconsistent with its medical indications as outlined in its U.S. Food and Drug Administration reviewed and approved product labeling. Brevital is intended to be used as an anesthetic in life-sustaining procedures.

As a pharmaceutical company, Par’s mission is to help improve the quality of life. The state of Indiana’s proposed use is contrary to our mission. Par is working with its distribution partners to establish distribution controls on Brevital to preclude wholesalers from accepting orders from departments of correction.”



Pfizer, Inc.

May 2016, updated September 2017

“

Pfizer makes its products to enhance and save the lives of the patients we serve. Consistent with these values, Pfizer strongly objects to the use of its products as lethal injections for capital punishment.

Pfizer's obligation is to ensure the availability of our products to patients who rely on them for medically necessary purposes. At the same time, we are enforcing a distribution restriction for specific products in the same class of drugs that have been part of, or could be considered by some states, for their lethal injection protocols. These products include atracurium besylate, diazepam, etomidate, fentanyl citrate, hydromorphone, midazolam, pancuronium bromide, potassium acetate, potassium chloride, potassium phosphates, propofol, rocuronium bromide and vecuronium bromide.

Pfizer's distribution restriction limits the sale of these thirteen products to a select group of wholesalers, distributors, and direct purchasers



Pfizer, Inc.

May 2016, updated September 2017

under the condition that they will not resell these products to correctional institutions for use in lethal injections. Government purchasing entities must certify that products they purchase or otherwise acquire are used only for medically prescribed patient care and not for any penal purposes. Pfizer further requires that these Government purchasers certify that the product is for “own use” and will not resell or otherwise provide the restricted products to any other party.

Pfizer will consistently monitor the distribution of these thirteen products, act upon findings that reveal noncompliance, and modify policies when necessary to remain consistent with our stated position against the use of our products in lethal injections. Importantly, this distribution system is also designed to ensure that these critical medications will remain immediately available to those patients who rely on them every day.”



Renaissance Lakewood, LLC

February 2018

“

At Renaissance, we view the use of Pentobarbital as an agent of lethal injection to be in diametrical opposition to our business of ethically developing and manufacturing high-quality pharmaceuticals to fulfill critical patient needs. Prior to launching the product, we did extensive research on this issue, and consulted with our distributors as well as human rights advocates in order to develop the most comprehensive plan. Based on what we have learned, our distribution system has been upgraded to restrict the misdirection of Pentobarbital manufactured by us with the goal of preventing the misuse of this product.”



Roche Holding AG

January 2015, updated October 2017

“

“Roche is aware of the use of benzodiazepines as part of a drug combination used for executions under the death penalty in the U.S.

Roche did and does not supply Midazolam and Diazepam for use under the death penalty and would not knowingly provide any of our medicines for this purpose. Roche's focus is on developing innovative medicines and diagnostic tests that help patients live longer, better lives.”



Sagent Pharmaceuticals

March 2014

“

In order to help ensure that patients have access to our products for use in accordance with the products' labels but to ensure our products are not used in capital punishment, Sagent is implementing appropriate distribution controls and other measures. In particular, Sagent will not accept orders from correctional facilities and prison systems for products believed to be part of certain states' lethal injection protocols. Also, each of Sagent's distributors and wholesalers will be asked to make commitments not to sell or distribute any such products to these facilities.”



Sandoz AG

February 2011, updated January 2019

“

Sandoz's Position Opposing the Misuse of Our Medicines in the Administration of Capital Punishment

Sandoz's mission is to discover new ways to improve and extend people's lives. Our purpose is to contribute to society's ability to support growing healthcare needs by pioneering novel approaches to help people around the world access high-quality medicine. While Sandoz takes no position on the death penalty itself, we object to the misuse of any of our products in the administration of capital punishment. Such misuse is fundamentally contrary to our mission and purpose.

Sandoz sells medicines that have important therapeutic uses, including medicines used in surgical procedures. Certain of these products have been identified by states for use in capital punishment, including some drugs which have never been used before in connection with lethal injections.



Sandoz AG

February 2011, updated January 2019

As a result, Sandoz has implemented distribution controls designed to prohibit the sale of such medicines to prisons and correctional facilities. Specifically, Sandoz has entered into contractual agreements with distributors stipulating that Sandoz medicines are to be sold exclusively to medical users such as hospitals for use consistent with approved product labeling. In addition, to prevent inappropriate diversion of our products, we have implemented similar contractual restrictions on any entity wishing to purchase such medicines for their own use, e.g., hospital or outpatient clinic.

Sandoz regularly monitors the distribution of our products to ensure compliance with our distribution controls and will take necessary legal action to ensure the proper use of our medicines.”



Shrenik Pharma Limited

2012

“

We are aware of the use of Thiopental Sodium in killing of prisoners in USA and have often wondered why the US-Govt. does not simply out-law the practice altogether.”



Sun Pharmaceutical Industries Ltd

September 2015

“

We currently require our customers to certify that they will prohibit the use and sale of such products to other customers and members that may administer lethal injections or which may sell to facilities that administer lethal injections.”



Tamarang Pharmaceuticals

March 2018

“

The use of the family of medicines known as neuromuscular blocking agents, which includes Rocuronium Bromide, is indicated as an adjunct in general anaesthesia and hospital intensive care. These medicines are used every day in all the hospitals around the world for this therapeutic indication and are commercialised by different pharmaceutical laboratories.

TAMARANG firmly opposes that our medicines could be used for a different purpose to that authorised by the health authorities, and thus we are against the use of our medicine Rocuronium Bromide in cases of capital punishment as a component of lethal injections.

From August 2014, our distributor in the USA, X-GEN, has implemented controls in the distribution of the medicine to prevent its supply to penitentiary hospitals in the United States and its use as a component in the lethal injection in cases of capital punishment.”



Teva Pharmaceutical Industries Ltd.

March 2013

“

[Teva is] limiting the sale and distribution of [propofol] to customers who agree to use best efforts not to sell or distribute to correctional facilities.”



XGen Pharmaceuticals DJB, Inc.

June 2018

“

X-GEN makes its products to enhance and save the lives of the patients we serve, and, therefore, we have always publicly objected to any off-label use of any of our products.

We distribute our product in a manner that is consistent with our goal of providing our customers uninhibited access to our products while restricting distribution for unintended uses.

In the United States, pharmaceutical products are often distributed through a complex, vast supply chain that is comprised of many primary and secondary distributors, the latter of which specialize in delivering product to the smallest and most remote clinics, in order that the medicines reach patients in need. Our distribution policy puts measures in place to restrict the sale of products for unintended uses, and most importantly, doesn't stand in the way of patient access to critical medications.

X-GEN's highest priority remains to provide unencumbered access to our medications for critically ill patients who rely on them every day. We continue to believe that efforts to influence policy on capital punishment are best directed at legislators who have the authority and ability to establish policy.”

Annex

There are currently 14 medicines listed in US state lethal injection protocols:

1. Pentobarbital;
2. Midazolam;
3. Sodium Thiopental;
4. Methohexital Sodium;
5. Diazepam;
6. Hydromorphone;
7. Fentanyl;
8. Etomidate;
9. Pancuronium Bromide;
10. Rocuronium Bromide;
11. Vecuronium Bromide;
12. Cisatracurium Besylate;
13. Potassium Chloride;
14. Potassium Acetate.

For further information please refer to the
Lethal Injection Information Center:
<http://lethalinjectioninfo.org>