

# Louisiana procured death penalty drug through deception

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The Louisiana Department of Corrections deceived a hospital in southwest Louisiana into providing it with a drug to be used in executions, according to a report from the New Orleans-area investigative journalism outfit *The Lens*. The drug in question, hydromorphone, is part of the same two-drug protocol used in the drawn-out, agonizing deaths of Dennis McGuire in Ohio and Joseph Wood in Arizona earlier this year.

The fact that Louisiana has resorted to cloak-and-dagger methods to procure the supplies needed to carry out its state killings testifies both to the immense and growing opposition to the death penalty and to the collapse of any commitment to democratic rights or the rule of law in the American ruling class.

In late January, Elayn Hunt Correctional Center's Medical Unit contacted Lake Charles Memorial Hospital to request 20 vials of hydromorphone, a potent painkiller and controlled substance. It is common practice for licensed pharmacies to sell drugs to other pharmacies, provided that they are needed to treat medical patients. As the only facility housing the state's chronically or seriously ill inmates, Hunt Correctional Center would have had a plausible reason to request the drug. Indeed, the prison pharmacist explicitly told the hospital that the drug would be used for a "medical patient."

However, the real destination for the drugs was the infamous Louisiana State Penitentiary, commonly known as Angola, where the state's death row facilities are located, where it was to be used to execute Christopher Sepulvado, sentenced to death for the 1992 murder of his stepson, in only a week's time.

Lawyers for Sepulvado were able to temporarily delay his execution, arguing that he had a right to know the manner in which he was to be executed. In May, after botched executions in Ohio and Oklahoma created

a public uproar, the Louisiana Department of Corrections agreed to a six-month delay of Sepulvado's execution in order to review the state's lethal injection protocol.

The documents surrounding the state's underhanded procurement of the execution drugs were made public last week as part of Sepulvado's ongoing legal battle. By sheer chance the state, which, like other states, jealously guards the source of its lethal injection drugs, neglected to redact the name of the pharmacist at Lake Charles Memorial Hospital in official records.

Like many other states throughout the country that currently administer the death penalty, Louisiana has scrambled in recent years to find alternative sources of lethal injection drugs after the European Union banned the export of chemicals to the US to be used in executions. Louisiana had switched to the two-drug protocol involving hydromorphone and midazolam, a commonly available sedative, on January 27, only a day before the Hunt facility filed its request for hydromorphone with Lake Charles Memorial Hospital.

Before then, Louisiana had used a one-drug protocol involving pentobarbital, which had been in widespread use throughout the country since 2011 after the previous three-drug standard had become unavailable due to shortages. However, pentobarbital has also become scarce, and the state's supply ran out last fall.

The impending shortage of lethal injection drugs sent the state into a flurry of improvisation to find a work-around in order to execute Sepulvado. In September, the state explored the possibility of obtaining pentobarbital from a Tulsa-based compounding pharmacy, the Apothecary Shoppe. In addition to the significantly lower quality of drugs produced at compounding pharmacies, such an arrangement would have been in flagrant violation of state law, which

requires that suppliers be licensed in the state of Louisiana.

The Apothecary Shoppe has allegedly also supplied lethal injection drugs to Missouri, which has carried out seven executions in 2014, and Oklahoma, which botched its execution of Clayton Lockett last May (see: “Missouri carries out seventh execution of 2014”).

Earlier this year, a bill was introduced in the Louisiana state legislature to protect the confidentiality of the sources of the state’s lethal injection drugs, in addition to allowing the state to legally purchase medication from out-of-state suppliers. The bill attracted overwhelming support within the state legislature before it was pulled at the last minute by its sponsor, Joe Lopinto (R-Metairie), after public outrage erupted in the aftermath of botched executions in Ohio and Oklahoma.

The dangers inherent in the ad hoc hydromorphone-midazolam protocol that Louisiana switched to were known even before the horrific executions in Ohio and Arizona. Deborah Denno of Fordham University told *Mother Jones* in November of last year, “We don’t know how these drugs are going to react because they’ve never been used to kill someone ... It’s like when you wonder what you’re going to be eating tonight and you go home and root through your refrigerator to see what’s there. That’s what these departments of corrections are doing with these drugs.”

The administration of Lake Charles Memorial Hospital, for its part, is eager to sweep the entire incident under the rug. Like the health care industry as a whole, their attempt to distance themselves from executions is motivated not by any sort of principled opposition to the death penalty, but a fear of bad publicity.

A spokesman for the hospital, after releasing a statement confirming that the Department of Corrections had lied to the hospital’s pharmacy, declared that the hospital would release no further statements on the issue and that “Memorial will not get into the debate of state executions.”

Board member Ulysses Gene Thibodeaux, chief judge of Louisiana’s Third Circuit Court of Appeals, told *The Lens*, “We have assurances from our CEO, who is a very forthright guy, that this will not happen again.” Lake Charles Memorial Hospital CEO Larry M. Graham also sits on the board of the Louisiana Medical

Mutual Insurance Company, which sells medical malpractice insurance to physicians. He also engineered the hospital’s takeover of nearby W.O. Moss Regional Medical Center, a publicly-run hospital privatized in a fire sale by governor Bobby Jindal last year.



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