

**American Pharmacists Association**  
House of Delegates – National Harbor, Maryland

**NEW BUSINESS**

**(To be submitted and introduced by Delegates only)**

Introduced by: Robin Murphy  
(Name)

2/18/2020 Delegate of APhA-APPM, but Submitting on behalf of herself  
(Organization)

**Subject: Non-execution Related Use of Pharmaceuticals in Correctional Facilities**

Inmate's health care is substantially and negatively affected by the refusal of multiple drug manufacturers to supply certain pharmaceuticals to any and all correctional facilities, regardless of the intended use.

**Motion:** To adopt the following new policy statements:

1. APhA opposes drug manufacturer's refusal to supply certain drugs to correctional health services units for the purpose of medical treatment of inmates. APhA recognizes that this means of political advocacy prevents humane medical care from being provided to inmates.
2. APhA advocates for inmates to have an opportunity, equal to that of non-inmates, to access medications that correctional providers deem medically necessary for appropriate and humane health care treatment.
3. APhA advocates for correctional providers to have equal opportunity (as non-correctional providers) to access, prescribe, and procure pharmaceuticals deemed necessary for medical treatment of inmates.

4. APhA calls upon drug manufacturers to immediately:
  - a. stop advancing political agendas at the expense of inmates' health care.
  - b. allow inmates an equal opportunity (as non-inmates) to access drugs that correctional providers deem necessary for appropriate and humane medical treatment.
  - c. supply correctional health care providers and correctional facilities' health service units with equal access (as non-correctional providers and facilities) to prescribe and procure pharmaceuticals necessary for provision of appropriate and humane health care services.
  - d. stop refusing to provide correctional facilities' health service providers and correctional facilities' health care units with the same access (and ability to prescribe) to medically-necessary pharmaceuticals as it allows non-correctional providers and facilities.

**Background:**

In order to make a political statement with regard to lethal injections, multiple drug manufacturers refuse to provide certain drugs to any correctional facility at all, regardless of whether the intended use of the drugs is for medical/healthcare purpose(s). Multiple manufacturers, including Hospira, Mylan, Akorn, Fresenius Kabi, Westward, Par, Sun, Sandoz, BD, and Sagent, have alerted wholesalers that they will no longer permit certain products “to be sold to U.S. state prisons, penitentiaries, jails or other incarceration facilities”<sup>i</sup>. Wholesalers who want to remain authorized distributors must agree not to distribute these products to any of those listed facility types or “other customers that they deem ‘unqualified’”<sup>ii</sup>.

The manufacturers' lists of items restricted from correctional facilities include drugs believed to be useable in executions (whether by existing protocol or substituted for one of the drugs in protocol). Most of these manufacturers have put an outright ban on providing these to any correctional facility or jail, even in states with no death penalty. That outright ban goes well

beyond what is necessary to prevent their product's use in executions and actually causes patient harm and suffering.

One specific problem encountered is due to lack of availability of IM/IV fentanyl, midazolam, and Propofol, which precludes proper medicating of the inmate prior to certain oral surgeries. Hence, the inmate can either forego the dental procedure or undergo the procedure while awake and in pain. Additionally, the inability to stock IM/IV lorazepam and diazepam in the ER kits limits the ability to properly treat emergent psychiatric conditions or status epilepticus. This poses a danger not only to the affected inmate needing medication, but also to other inmates and staff.

Supplying these drugs to health services for medical treatment of inmates is not at all the same as supplying them for use in executions. In the Oklahoma Department of Corrections (ODOC), health services stands entirely separate from those within the agency who perform executions. First of all, their goals are entirely different. Health service's goals include *"providing appropriate, timely"*<sup>iii</sup> and *"humane medical and dental care for offender patients"*.<sup>iv</sup> Further, health services operates independent of those charged with executions. Medical/health service providers maintain their own DEA and state registrations (medical board, nursing board, Oklahoma Bureau of Narcotics, etc.). Medical/health services have separate sites; executions are performed in the execution chamber, not within the medical services unit. Medical personnel used in executions is not the same medical/health services staff (they are contracted from outside the agency). The means of procuring execution drugs is entirely unknown to health services staff. There is no involvement of ODOC health services staff in any step of performing executions, including the procurement of any drug for use in executions.

Hence, in refusing to provide these drugs to health services units, the manufacturers are not preventing executions; they are only preventing inmates from receiving humane medical treatment, as inmates will have to either forego these procedures altogether or undergo them without being properly medicated. Any good intended to come from this ban is entirely thwarted by the patient harm it causes. There are already too many obstacles to patient care to contend with, especially in this particular patient population, so manufacturers need not add unnecessary barriers to the struggle.

## **Current APhA Policy & Bylaws:**

### **1983 Stocking a Complete Inventory of Pharmaceutical Product**

APhA supports the rights and responsibilities of individual pharmacists to determine their inventory and dispensing practices based on patient need, practice economics, practice security, and professional judgment.

*(Am Pharm NS23(6):52 June 1983) (Reviewed 2004) (Reviewed 2010) (Reviewed 2015)*

### **2004, 1990 Freedom to Choose**

1. APhA supports the patient's freedom to choose a provider of health care services and a provider's right to be offered participation in governmental or other third-party programs under equal terms and conditions.
2. APhA opposes government or other third-party programs that impose financial disincentives or penalties that inhibit the patient's freedom to choose a provider or health care services.
3. APhA supports that patients who must rely upon governmentally-financed or administered programs are entitled to the same high quality of pharmaceutical services as are provided to the population as a whole.

*(Am Pharm NS30(6):45 June 1990) (JAPhA NS44(5):551 September/October 2004) (Reviewed 2010) (Reviewed 2015)(Reviewed 2018)*

### **\*\*Phone numbers will only be used by the New Business Review Committee in case there are questions for the delegate who submitted the New Business Item Content.**

New Business Items are due to the Speaker of the House by **February 19, 2020** (30 days prior to the start of the first House session). Consideration of urgent items can be presented with a suspension of the House Rules at the session where New Business will be acted upon. Please submit New Business Items to the Speaker of the House via email at [hod@aphanet.org](mailto:hod@aphanet.org).

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<sup>i</sup> Cardinal Health Memo, March 8, 2016

<sup>ii</sup> Cardinal Health Memo, March 8, 2016

<sup>iii</sup> <http://doc.ok.gov/rehabilitative-services> accessed 2.13.20

<sup>iv</sup> <http://doc.publishpath.com/medical-services> accessed 2.13.20