HOUSE
RESEARCH
ORGANIZATION
Texas House of Representatives

Interim
NEWS

May 26, 2004 *Number 78-5*

Health and Human Services Reorganization: Consolidation, Call Centers, and Councils

This article is the first of a series about the changes made during the 78th Legislature in HB 2292 by Wohlgemuth, the omnibus health and human services reorganization bill.

A centerpiece of the sweeping changes contained in HB 2292 was the consolidation of the 10 health and human service (HHS) agencies into four under the umbrella Health and Human Services Commission (HHSC). Two initiatives related to the reorganization have generated significant controversy among stakeholders: the establishment of call centers for eligibility determination and the reduction in department and advisory boards.

Prior to HB 2292, Texas' HHS activities were administered by 10 agencies under the aegis of HHSC (see *Newly consolidated HHS agencies*, page 2). These agencies had nearly 50,000 employees and constituted Texas' second largest budget function after education, accounting for 30 percent of fiscal 2002-03 spending. HHSC was created in 1991 to oversee and allocate resources for other HHS agencies. Since then, the commission's authority has expanded to include direct, daily oversight of agency operations and direct administration of the Medicaid program.

In addition to consolidating agency operations into four departments, the reorganization plan required HHSC to assume all administrative functions, such as information technology, human resources, legal, and purchasing. HHSC detailed its plans for consolidation in a transition schedule published in November 2003 and established an internal transition steering committee to work with the Transition Legislative Oversight Committee required by HB 2292.

Consolidation activities

In December 2003, HHS Commissioner Albert Hawkins named the commissioners for the new

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Does the State's Use of a Lethal-Injection Drug Constitute Cruelty?

Critics of the state's use of one of the three drugs administered during executions by lethal injection have called for a halt to its continued use. Those who oppose administration of this drug – pancuronium bromide – say using it is cruel because it can mask an inmate's possible suffering during an execution. Others argue that there is no evidence that the drug causes the condemned to suffer and that the drug mixture used by the state renders a person completely unconscious and oblivious to pain during the execution process.

While court challenges over the use of this combination of drugs in Texas and other states have halted some executions, lethal injections under the current process continue in Texas. In May 2004, the U.S. Supreme Court ruled that an Alabama death row inmate could bring a civil rights suit challenging execution procedures as cruel and unusual, but so far no Texas state court has directly addressed whether use of any of the drugs currently being administered is constitutional.

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departments, and the governor approved the selections. Under previous law, commissioners of the major HHS agencies were employed by the HHSC commissioner with the concurrence of the agency's policymaking body and the governor's approval. An agency director served at the pleasure of the HHSC commissioner but could be discharged only with the concurrence of the agency's policymaking body. HB 2292 removed the need for the policymaking body's concurrence in these decisions.

The new Department of Family and Protective Services, formerly the Texas Department of Protective Services, was launched in February of 2004, followed on March 1 by the new Department of Assistive and Rehabilitative Services. The Department of Aging and Disability Services and the Department of State Health Services are scheduled to begin operations in September 2004.

Integrated eligibility determination and call centers

HHS agencies administer a wide range of programs, including state health insurance programs such as Medicaid and the Children's Health Insurance Program (CHIP), cash assistance through Temporary Assistance to Needy Families (TANF), food stamps, and institutional and community-care services for the elderly and disabled (for a detailed list, see Major HHS programs, page 3). A principal duty for each HHS agency is determining whether applicants meet the criteria to receive services. Some programs have mail-in, phone, or online applications, but the majority of eligibility determination is performed by a specialist in a face-to-face interview setting.

The Legislature has authorized some movement away from "in-person" requirements for eligibility determination. When CHIP was established in 1999, the program design included an easy-to-use mail-in form for application and re-enrollment. In 2001, children's Medicaid forms and procedures were designed to resemble those in CHIP.

HB 2292 requires HHSC to establish, if cost-effective, one or more eligibility-determination call centers. The statute limits the number of call centers to four and requires them to be located in Texas, although overflow calls could be directed to out-of-state call centers. HHSC conducted a business case analysis and concluded that using call centers would be cost-effective.

Business case analysis and proposed rule. As part of its analysis, HHSC studied the current eligibility-determination process for two of the largest programs: Texas Works, an integrated process to apply for TANF, acute-care Medicaid, and food stamps; and Long-Term Care (non-acute-care Medicaid services). It found that those two programs together have a budget of about $600 million annually and employ around 10,000 workers at 382 field offices and 211 other locations, such as hospitals or other community locations. Key findings from the analysis include the following:

Newly consolidated HHS agencies

Prior to HB 2292, HHSC oversaw the activities of 10 health and human services agencies. Following the consolidation, it will oversee four.

- The Texas Department of Health (TDH), Department of Mental Health and Mental Retardation (MHMR) mental health services, and Commission on Alcohol and Drug Abuse will become the **Department of State Health Services**;
- The Texas Department of Human Services, Department on Aging, and MHMR mental retardation services will become the **Department of Aging and Disability Services**;
- The Texas Rehabilitation Commission, Commission for the Blind, Commission for the Deaf and Hard of Hearing, and Interagency Council on Early Childhood Intervention will become the **Department of Assistive and Rehabilitative Services**; and
- The Texas Department of Protective and Regulatory Services (DPRS), will be renamed the **Department of Family and Protective Services**.

- Applicants interact with three or more different employees each visit and usually are required to return for another visit, all for the same eligibility determination.
- Eligibility-determination processes are paper and labor intensive, requiring multiple copies of forms and documentation, signatures, and manual distribution within an office.
- The eligibility process and computer systems contribute to the duplication of work and costs.
- There are significant differences in business practices and efficiency between offices.
- The call systems in place have few self-service options, are outdated, and do not support the volume of calls received, resulting in busy signals.

The business analysis concluded that an improved integrated eligibility system could remove inconsistencies and duplication in the system, free employees from administrative tasks, and offer improvements in technology.

In determining the cost-effectiveness of call centers, HHSC's business case analysis examined the food stamp program's eligibility services. It found for this program that the state could save $38 million per year, a 12 percent reduction from the fiscal 2004 budget, through productivity improvements and redistribution of tasks to "right-skilled, lower-cost employees." This would involve reducing the number of full-time employees by 637, or 16 percent.

Based on the findings of the business case analysis, HHSC has proposed a rule that would establish between one and four call centers, per the requirements in HB 2292. In the fiscal note attached to the bill, HHSC estimated that establishing the call centers would save $389 million in all funds over the first five years with a reduction of 4,487 full-time employees. The commission has not released information about how many call centers would be established or how many current offices would be closed, but based the fiscal note on improving the use of time, then

Major HHS programs

Health and human services agencies administer a wide range of programs, including:

- Medicaid, the federal-state health insurance program for the poor, elderly, and disabled. This program, the largest source of federal funds in the state budget, serves about 2.4 million acute-care recipients. The state also pays for long-term care services, such as nursing homes, for low-income seniors or people with disabilities;
- Children's Health Insurance Program (CHIP), a federal-state health insurance program for children in low-income families not eligible for Medicaid;
- Vendor Drug Program, which includes prescription drug benefits for Medicaid and CHIP recipients and other direct medical assistance programs administered by TDH;
- Temporary Assistance to Needy Families (TANF), a federal block grant that funds cash assistance and other services for poor families;
- food stamps, federal nutritional assistance for low-income families;
- eligibility determination for federal Social Security benefits;
- institutional and community-care services for people with mental illness or mental retardation, including the operation of state hospitals to treat mental illness and state schools that serve as residences for people with mental retardation;
- protective services, foster care, and adoption for children who cannot remain in their homes because of abuse or neglect;
- services for specific populations, such as the elderly, blind, deaf and hard of hearing, and those with special medical conditions, such as HIV/AIDS or kidney diseases; and
- licensing and regulation of certain health professions.

calculating how many employees and how much money would be needed to perform eligibility-determination services.

Part of the rule proposal includes an analysis of the potential public benefit that could be realized by implementing call centers. In addition to the financial savings, it suggested that call centers would improve access for clients by reducing the amount of time and documentation needed to apply for services and increasing the accuracy of the determination process. The new system would integrate community-based organizations (CBOs) into the process by giving them an active role in helping people determine what services they may need. This would better utilize the existing network of CBOs and result in greater access. While the proposal would involve job losses in areas that currently have offices, call centers, by removing the need for a personal visit, would allow many working people to apply for services, or assist others in this process, without missing work or having to arrange transportation or child care.

The proposal would not eliminate all state-employed benefit specialist positions and would retain 164 centers. This number was established based on the assumption that no client should have to travel more than 30 miles in rural areas, 15 miles in suburban areas, and 5 miles in urban areas. Other benefits it identified include increased utilization of existing assets, such as the state's 211 system that provides information about and referrals to human services, decreased overhead such as facilities and telecommunications, and cost avoidance of future location changes.

Stakeholders' concerns. State employee groups are opposed to the proposed rule, believing that it would represent a significant loss of jobs, reduce the quality of service, and could fail to return the projected level of savings. According the Texas State Employees Union's analysis of the proposal, it could result in a loss of up to 7,500 jobs because current eligibility-determination specialists could be moved to privatized call centers, which would represent a loss of $150 million per year in after-tax payroll and $36 million in state-paid health-care benefits for local communities. In some rural areas, state jobs are the only ones that offer living-wage salaries and health-care benefits. Without those jobs, some communities may wither economically, and residents who once provided services might become recipients, say these stakeholders. While the business case analysis showed that there are problems with the current system, it did not account for the effect of chronic understaffing, which only would be exacerbated by reducing the number of employees. It also did not account for the impact a large number of newly unemployed state workers might have on the Texas Workforce Commission and the Employees Retirement System of Texas.

Employee groups, representatives of people with disabilities, and other stakeholders also say that eligibility determination specialists are key to making the system work well. Letting these employees go or forcing them into call centers would have a deleterious effect on the health and well-being of Texas' most vulnerable residents, they say. Interviews allow workers flexibility in overcoming communication barriers and can offer cues to the need for other services, advantages that would be lost over the phone. Another key benefit of an office visit is that it builds a sense of continuity and relationship, encouraging the client to use the services responsibly. According to these stakeholders, many people find the process of navigating phone systems difficult, cold, confusing, and time-consuming, factors that could dissaude people from enrolling in the programs they need and result in increased fraud and abuse.

Employee groups and other stakeholders say that HHSC's cost-saving estimates for call centers are too rosy because they do not take into account many of the costs the state likely will incur. They say the commission should be required to consider the cost of lost jobs and reduced services when performing a cost-benefit analysis of the proposal. It also should take into account the full costs of getting the technology up to speed when calculating the up-front costs of call centers. The state's planned new database for human services, TIERS, is behind schedule, and it is unclear when or if it will work as envisioned in the business case analysis. The 211 phone system has been under funded since its inception and often is run by volunteers. It would need significant investment to be the entry point for the state's eligibility-determination services. The assumption that no client would travel more than 30 miles to obtain services from a benefits issuance center (BIC) is not based on where centers are located today, but rather a map of where they could be in the future. Because HHSC does not plan to open new BICs in the next year, many clients would have to travel long distances to go to existing BICs. The

projected savings also do not account for caseload growth or inflation, say these stakeholders, and projections include the loss of federal funds, which is a cost, not a saving, to the state.

Stakeholders in the disability community say that the plan for call centers fails to describe how it would be accessible to people with disabilities. The 211 system is not yet fully accessible to people with hearing impairments. Other stakeholders who represent indigent and low-income families say that the assumptions about clients' abilities to navigate systems by telephone or the Internet are untested and optimistic. The people who apply for social services are unlikely to use a computer and may not have reliable phone service, they say.

Some stakeholders are concerned that issues of accountability and compliance with federal law relating to these programs were not addressed by the business case analysis when it contemplated the use of CBOs and

Call-center models at other state agencies

Call-center technology designed to improve efficiency and possibly cut costs is in operation or under consideration for use in other areas of state government.

TWC model. In the mid-1990s, the Texas Workforce Commission (TWC) established a call-center model to conduct unemployment insurance eligibility determinations. Previously, TWC offices had served as centers for both workforce development and eligibility determination. With the establishment of call centers, all eligibility determination services were moved from the offices, but they continued to offer workforce development services.

TWC first conducted a pilot program, then implemented the call center model statewide. Approximately 60 percent of the eligibility determination employees chose to remain with the state and were reassigned to call centers. TWC also has implemented an online application process. Currently, about 15 percent of their applications are submitted over the Internet. Efficiencies realized by the call centers and online application process have been redirected to improving the system but have not resulted in direct state savings because they are funded by the federal government.

Proposed parolee-monitoring system. In March 2004, a subcommittee of the House Corrections Committee heard testimony about using "automated management services" to help manage and supervise criminal offenders who have been released on parole. John L. White, representing Protocol, Inc., said that a system combining call center technology with high technology could be beneficial to Texas.

White said that Illinois operates such a call-center system to verify and track the whereabouts of parolees and to facilitate contact between parolees and parole officers. Parolees can be required to telephone the call center when they arrive at work or home, and the offenders' compliance can be reported to parole officers. If, for example, a parolee was late to work because a bus broke down, the parolee could report the incident by telephone to the call center, where an employee could verify and report this information to the parole officer. By transferring these routine monitoring duties to call centers, the system is designed to promote efficiency and save money by allowing parole officers to concentrate on other responsibilities, according to White.

White estimates that such a system could save the state about $122 million over five years, and even more to the extent that offenders are placed on parole instead of being incarcerated. However, officials with the Texas Department of Criminal Justice (TDCJ) caution that potential cost savings should be carefully evaluated. It could be counterproductive to pay for such a system by cutting the current parole budget or by reducing the number of parole officers to reflect projected savings, they say. A call-center system might best be used to enhance, rather than to supplant, current parole supervision efforts, but such a system might not represent any savings to the state, agency officials said.

possible privatization of the call centers. They say that the state has not evaluated whether CBOs are willing or able to take on the responsibilities envisioned in the plan, such as information and referral services. CBOs would not be compensated by the state for their efforts, and it would be difficult to hold them accountable for the services they would provide. Privatizing call centers also is fraught with issues relating to accountability, further complicated by federal requirements about eligibility determination. Because the state has not yet established that call centers are cost effective, it is unrealistic to believe that a private company could operate a call center that saved money while maintaining the same high level of service and complying with federal law, say the critics.

Advisory councils and the rulemaking process

In consolidating HHS agencies, HB 2292 abolished the agency policy-making boards, such as the Board of Health. It created five new advisory councils: one nine-member HHS council and four others attached to each of the new departments. Prior to reorganization, the boards had rulemaking authority and served an oversight function for budget and programmatic operations of the agency. The new councils will not have rulemaking authority. Rather, they will be in place to help the commissioner develop rules and policies. The commissioner is required to develop policies to ensure that the public has a reasonable opportunity to appear before the council or the commissioner. The commissioner also is to develop rules to delineate policymaking responsibilities of the council versus those ascribed to HHSC, individual departments, or others.

HHSC has drafted proposals to define the roles of the agency councils and the rulemaking process. Although HB 2292 defined the councils' role as helping the commissioner develop rules and processes, HHSC's plans would use the councils to ensure stakeholder input in rulemaking. The draft proposal would include budget and spending matters, rate-setting, performance measures, service prioritization, and legislative planning within the councils' scope. In addition, the councils would be authorized to initiate rules, although they would be approved by the commissioner or another designee.

In addition to the dissolution of the policy-making boards, HB 2292 abolished all HHS advisory committees, including CHIP regional advisory committees, except committees required by federal law, those concerned with licensing, and the Telemedicine Advisory Committee. It permitted the HHSC commissioner to exempt other advisory committees from abolition. Commissioner Hawkins chose to retain 66 advisory committees (those protected by the legislation), and 39 were abolished.

Some stakeholders say that the proposed new processes have significant advantages over the old system. In the past, each agency and policy-making board had its own patchwork of advisory committees and rule-making processes that could be difficult to navigate. Under HHSC's proposal, the process would be consolidated and standardized, making it easier for stakeholders to have input as rules were developed.

Other stakeholders say that the new system consolidates too much power in the hands of the commissioner. They say that the dissolution of all optional advisory committees is a signal that the executive team – the commissioner and council members, all appointed by the governor – does not want other voices to be heard. In the past, the agency policy-making boards and advisory committees have provided regional representation, and their members have brought expertise to the issues at hand. It is not possible to replicate that knowledge base through the nine-member councils, say the critics.

The commission's proposed plan for the councils would permit them to use existing advisory committees for input on the rulemaking process, but some stakeholders have suggested that the councils be authorized to convene ad hoc advisory committees. This would allow them to gather individuals with specialized knowledge and make recommendations when the council was faced with particularly complicated or technically difficult issues. In addition, it would formalize the ongoing role of stakeholders in the rulemaking and policy-setting process.

— by Kelli Soika

(Drug, from page 1)

Current law and procedures

Texas Code of Criminal Procedure art. 43.14 requires that death sentences be carried out by intravenous injection of a lethal quantity of a substance sufficient to cause death and requires the director of the institutional division of the Texas Department of Criminal Justice (TDCJ) to determine and supervise execution procedures. Code of Criminal Procedure Art. 43.24 prohibits the infliction of torture, ill treatment, or unnecessary pain upon persons sentenced to death.

TDCJ uses three drugs for a lethal injection, administered in the following order: sodium thiopental, an anesthetic; pancuronium bromide, a muscle relaxant that collapses the diaphragm and lungs; and potassium chloride, which stops the heartbeat. It is the second drug, pancuronium bromide, that is the target of most of the current criticism. Of the 38 states that have authorized the death penalty, 37 use lethal injection, and about 30 of those use a three-drug mixture similar to the one used in Texas.

TDCJ adopted the current mix of lethal drugs in 1982. In 2003, TDCJ's medical and legal staff reviewed the scientific and legal issues being raised about the drugs, and the agency reports that its staff concluded no changes to the current procedures were necessary.

Since the method of lethal injection is not specified in statute, it could be changed in several ways, including a revision of TDCJ's procedures, the adoption of a directive by the TDCJ board, the enactment of a statute, or the issuance of a court order.

Debate over Texas' lethal injection drugs

While questions have been raised about each of the drugs used in Texas' execution protocol and about the procedures themselves, most of the current debate focuses on the use of the muscle relaxant pancuronium bromide.

Critics of the current method of lethal injection say: The combination of drugs used in a lethal injection can result in a painful, cruel, and protracted death. Lethal injections should be done as humanely as possible, and when the Legislature chose this method of execution its intent was to assure the swift and painless death of inmates being executed. While the administration of pancuronium bromide can be necessary for certain medical procedures, such as keeping a surgical patient completely immobile, the drug is unnecessary in a lethal injection when other drugs can be given in sufficient dosages to cause a humane death. The state could address concerns about the current drugs by using other chemicals to bring about death or by holding hearings into the current procedures so that all the facts can be considered.

In some cases, the use of pancuronium bromide could give the false impression of a calm and peaceful death. If, as some evidence indicates can happen, the sedative effect of the anesthesia given first during an execution wore off too quickly, was ineffective, or was neutralized by interactions with the other drugs, the second drug administered, pancuronium bromide, could paralyze persons while they were still conscious. Such situations have occurred during surgery when lower concentrations of the first and second drugs used during a lethal injection are given. In these cases, patients report lying in agony, fully conscious and sensitive to the pain inflicted by surgical procedures, yet unable to indicate their distress. If the anesthetic failed to work properly during a lethal injection, pancuronium bromide would mask the excruciating pain of the dying inmate, leaving him awake but unable to talk, move, or express pain as his diaphragm and lungs collapsed and his heart stopped beating.

In one of the lawsuits challenging the drugs that Texas uses in lethal injections, Dr. Mark Heath, assistant professor of clinical anesthesia at Columbia University, is quoted as saying, "Pancuronium bromide makes the patient look serene because of its paralytic effect on the muscles. The face muscles cannot move or contract to show pain and suffering. … By completely paralyzing the inmate, pancuronium bromide masks the normal physical parameters that an anesthesiologist or surgeon would rely upon to determine if a patient is completely unconscious."

He also said that properties of sodium thiopental when used alone or with other drugs contribute to "the risk of the inmate not being properly anesthetized, especially since no one checks that the inmate is unconscious before the second drug is administered."

The state should not continue to use a drug to execute death row inmates that has been banned by the state and condemned by the American Veterinary Medical Association (AVMA) for use in animal euthanasia. In 2003, the 78th Legislature enacted SB 572 by Harris, which established acceptable methods of euthanizing animals in a shelter, and effectively banned the use of drugs such as pancuronium bromide. In 2000, the AVMA Panel on Euthanasia said in a report that all neuromuscular blocking agents and sedatives with a neuromuscular blocking agent are unacceptable for use as euthanasia agents. Numerous other states have animal euthanasia laws that follow these guidelines.

Supporters of the current method of lethal injection say: Death penalty opponents are using the objection to pancuronium bromide as a red herring to slow or halt the implementation of death sentences. The combination of drugs used by Texas is a humane, proven way to carry out death sentences. Some 30 other states use similar drug mixtures and have been doing so for decades.

While pancuronium bromide and potassium chloride, the second and third drugs given during a lethal injection, could cause pain if administered to an awake person, they are given only after a person being executed has been rendered completely unconscious and insensible to pain by a massive dose of the sedative sodium thiopental. The amount of anesthetic administered during the execution of an inmate is about 10 times greater than the amount given to a surgical patient, which far exceeds what is necessary to make a person unconscious. Pancuronium bromide has been used for decades to induce anesthesia in surgical patients. Instances in which patients have reported failure of the anesthetic during surgery are exceedingly rare and would not occur following the large doses given to the condemned.

A Tennessee court that did not find that state's method of lethal injection to be unconstitutional concluded that there is a less than a remote chance that a condemned person would be conscious by the time pancuronium bromide was administered. TDCJ reports that its medical staff has assured it that the combination of drugs used makes the person incapable of feeling pain during an execution.

Guidelines adopted by the American Veterinary Medical Association discourage the use of pancuronium bromide to euthanize animals when it is the only drug being given to awake animals. The guidelines say nothing about use of the drug in the combination used by TDCJ. It is unfair to compare the Texas law enacted in 2003 dealing with animal euthanasia with the drugs used in lethal injections. The animal law does not specifically ban pancuronium bromide or any other drug, but merely names the two drugs that can be used. The law was enacted in response to concerns about the use of certain euthanasia methods, such as the use of carbon monoxide, and not any specific concerns about pancuronium bromide.

Legal challenges

In 2003, lawyers for death row inmates in Texas and several other states filed court challenges to the use of the mixture of drugs used in lethal injections, generally arguing that because these drugs can cause suffering, their use constitutes cruel and unusual punishment, which violates the Eighth Amendment to the U.S. Constitution. The issue raised in these lawsuits is the constitutionality of the particular combination of drugs, not the use of lethal injection as a method of execution, the validity of the inmates' convictions, or the constitutionality of the death penalty itself. A court ruling in favor of the death row inmates on this question could force states to develop a different way to perform lethal injections but would not affect the underlying death sentences given to individuals.

In December 2003, three Texas death row inmates were part of a lawsuit challenging the constitutionality of the drugs used to perform lethal executions in Texas. Although ultimately unsuccessful, this challenge progressed to the U.S. Supreme Court, which halted the scheduled execution of Kevin Lee Zimmerman about 20 minutes before it was to occur. Five days later, the court lifted the stay, and Zimmerman was executed in January 2004.

Four justices objected to lifting Zimmerman's execution stay (540 U.S. ____ 2003, No. 03A497) , saying the court should wait to rule in Zimmerman's case until it had decided the case of an Alabama death row inmate who argues, in part, that execution by lethal injection would be cruel because he has collapsed veins. In May 2004, the U.S. Supreme Court ruled in the Alabama case, *Nelson v. Campbell*, No. 03-6821, that challenges to the execution procedures as cruel and unusual – which do not involve challenges to the legality of a sentence or a conviction – can be brought as civil rights suits. The court did not consider the issue of whether the method of execution in this case would constitute cruel and unusual punishment.

Court rulings in similar lawsuits in other states have been split, with stays being granted in some cases and executions proceeding in others. In one case, the Louisiana Supreme Court ordered hearings on several death penalty post-conviction issues, including a constitutional challenge of lethal injection. So far, several hearings have been held on the challenge, with more hearings and depositions expected in the coming months.

In February 2004, a New Jersey intermediate court of appeals stopped lethal injections in that state and ordered the Department of Corrections to examine its execution regulations, including examining what is known medically about the lethal injection drugs to address questions about the reversibility of lethal injection if an inmate was granted a last-minute stay just as the drugs were being administered. The department is gathering medical information about the lethal-injection drugs and plans to propose a new rule this summer governing execution procedures. Challengers in the case are appealing and have asked the state's higher court to rule on the constitutionality of the state's lethal-injection method. When the decision was issued, New Jersey was preparing to hold its first execution in about four decades. The decision affects six pending death sentences and about 13 others on death row in the state.

In Tennessee, a lower court judge considering a lawsuit challenging the execution drugs ruled that they did not constitute cruel and unusual punishment and that there was a less than remote chance that a prisoner would be subjected to unnecessary physical pain or psychological suffering under Tennessee's lethal injection method. However, the judge also wrote that the use of pancuronium bromide is problematic because it is unnecessary.

— by Kellie Dworaczyk

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