3. The prescription requirement

The Interior Ministry of North Rhine-Westphalia was first informed directly about the problem in April 1961. The Ministry adopted a passive, wait-and-see stance, especially in view of the fact that both the basis of available information and the legal options for imposing sanctions were limited. Consequently, the producer and, somewhat later, leading neurologists were asked to submit position statements in the hope that the company would apply for adoption of a prescription requirement on its own volition. While the company downplayed the case statistics, physicians expressed urgent warnings against the use of Contergan (the physicians in question had not notified the Ministry themselves, however).

When the first soundly documented expert reports on damage caused by thalidomide appeared in May 1961, corporate management realized that a further delay was no longer justifiable, particularly as the tide of reports on side effects refused to abate. Thus on May 25, the company decided to seek prescription-only status for thalidomide, and the application was submitted to the Ministry in Düsseldorf the next day. Because the application did not cite negative side effects but was based instead upon the rapid rise in the use of the medication, it was clear to Ministry officials that the company was employing delaying and obfuscation tactics. As the imposition of a prescription requirement was a relatively complicated procedure carried out at the state level, things moved relatively quickly from that point on. North Rhine-Westphalia officially imposed the prescription requirement effective July 31, 1961. When the Medicinal Products Act took effect the next day, the prescription requirement was already in force in the states of Baden-Württemberg and Hessen as well. In view of the rapidly growing risk of claims for damages, the company sought to bring about the adoption of a prescription requirement in the other states as well. Following its earlier attempts to delay the imposition of a prescription requirement, Chemie Grünenthal was now intent upon speeding up the process. The wait was longest in Bavaria, where the prescription requirement took effect on January 1, 1962. By then, Contergan was no longer even on the market.

The first report on Contergan-related damage published in the mainstream press appeared in an article in *Der Spiegel* entitled “Zuckerplätzchen forte” (extra-strength sugar cookies) on August 16, 1961. The company then formed a Contergan committee tasked with coordinating all further measures undertaken by Chemie Grünenthal. Although the company continued to deny the harmful effects of the medication, it now reached settlements on compensation for damages with an increasing number of victims. Following the imposition of the prescription requirement and publication of the *Spiegel* article, sales of Contergan fell dramatically, while reports of side effects continued to multiply. More than 7,300 such reports, 2,800 of which cited nerve damage and neural disorders, were received at company headquarters before the product was withdrawn from the market.