(4) "Some received as little as 1 tablet daily; others as much as 4 tablets daily, the dose being adjusted according to individual patient response as the study progressed." The headline in the mailing piece, however, invites the reader to believe that Thomas also found that the daily dose required to keep blood pressure down was "one or two tablets".

Examination of the Salutensin monograph appearing in the 1965 edition of the PDR reveals a third instance where labeling is not substantially the same as that which is set forth in the approved new drug application. In the same way as described above at page 8, paragraph 1 in relation to Mailing Piece "SH 3852 RV" this monograph fails to provide full disclosure concerning the drug's side effects, warnings and precautions.

II—Prostaphlin:

21 U.S.C. 352(f) (1) (Reg. 1.106(b)(4)).—Prostaphlin is a prescription drug and, as such, adequate directions for lay use cannot be written for it. It is quite obvious then that the labeling of the Prostaphlin here involved did not bear adequate directions for lay use as required by 21 U.S.C. 352(f)(1). Furthermore, the Prostaphlin was not exempt from 21 U.S.C. 352(f)(1) as provided by regulations 21 CFR 1.106(b) since it failed to comply with the conditions for exemption set forth in subparagraph 4(i) of such regulations. This condition requires that any labeling of a prescription drug shall contain adequate information for use including indications, effects, dosages, routes, methods and frequency and duration of administration and any relevant hazards, contraindications, side effects and precautions under which practitioners licensed by law to administer the drug can use the drug safely and for the purposes for which it is intended. Further if the drug is subject to 21 U.S.C. 357, the labeling providing such information must be substantially the same as the labeling required as a condition for the certification of such drug (See regulations 21 CFR 146.2(b) and 146.4(a)(1)). In the case of Prostaphlin, examination of the monograph for such drug in the 1965 edition of the Physicians' Desk Reference, which is labeling for the drug as described in regulations 21 CFR 1.105(1), has disclosed that such labeling is not substantially the same as the labeling (package insert) which was submitted for purposes of obtaining certification. Examples of the omission of important items of information in the Prostaphlin monograph in the PDR which are contained in the package insert labeling submitted for purposes of certification are set forth below:

1. That safety for use of the drug in pregnancy has not been established.
2. That periodic assessment of organ system functions, including renal, hepatic and hematopoietic, should be made during long-term therapy with the drug.
3. A warning that anaphylactoid reactions to the drug have been encountered.
4. A warning that hazards of anaphylaxis to patients with a history of penicillin allergy must be balanced against the prognosis if the drug is withheld.

The Prostaphlin monograph in the 1965 edition of Physicians' Desk Reference also differs from the package insert labeling submitted for purposes of certification in that the monograph is false and misleading because of the following:

1. The monograph implies that the drug Prostaphlin is safe and effective when used in accordance with the information contained in the monograph, when in fact this monograph does not provide all the information required for safe and effective use of the drug because it fails to include the warnings referred to under the four points discussed in the preceding paragraph.
2. The monograph includes the statement "No anaphylactic reactions have been encountered" which statement is contrary to fact.
3. The monograph includes the statement "Reactions to this penicillin have been infrequent and mild in nature" which is misleading because of the phrase "mild in nature."

21 U.S.C. 352(1).—It is further alleged that Prostaphlin when introduced into interstate commerce was misbranded within the meaning of 21 U.S.C. 352(1) in that it was represented as a drug composed of a certifiable antibiotic, namely sodium oxacillin, and it was not from a batch with respect to which a certificate or release issued pursuant to Section 357 was in effect with respect to such drug since the certificate which was issued on February 4, 1965 for such batch had been obtained through misrepresentation and concealment of a material fact. The application for certification constituted a misrepresentation and was a concealment of a material fact in that it purported to be preceded or accompanied by specimens of all labeling to be used for such drug when in fact