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Chapter 406: A Prescription for Relief for Chronic Pain Sufferers or Improved Accessibility for Drug Abuse?

Saira Din

Code Sections Affected

Health and Safety Code §§ 11029.5, 11161.5, 11161.7, 11162.1, 11162.6 (new); §§ 11159.2, 11161, 11164, 11165, 11167, 11167.5, 11190 (new, amended, and repealed); §11164.1 (new and repealed); §§ 11165.1, 11166 (amended); §§ 11162, 11168, 11169 (amended and repealed).

SB 151 (Burton); 2003 STAT. Ch. 406.

"Pain makes them want to die. Pain makes them actively suicidal. Pain destroys their hopes and their lives."[1]

I. INTRODUCTION

In April of 2003, a settlement was finally reached in a lawsuit brought by the family of Lester Tomlinson of Concord, California against his doctor, Eugene Whitney, for not controlling his pain adequately.[2] The physician is also facing action by the medical board.[3] According to Ron Joseph, Executive Director of the California Medical Board, Tomlinson's suffering was unnecessary.[4] However, doctors state that a major barrier to pain management has been the burdensome triplicate prescription forms required for powerful pain medications.[5] A consequence of the triplicate system "is that doctors sometimes avoid prescribing" powerful pain medications "even when necessary."[6] According to Dr. Scott Fishman, who has testified before the state Legislature in support of Chapter 406, "[i]t's not right to allow people to suffer.... There has to be a balanced approach.... Misused drugs can cause addiction, but addiction is seldom a result of good pain management."[7]

Chapter 406 eliminates the triplicate prescription requirement and requires that prescriptions for any controlled substances be issued on a form obtained

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1. *See* Nancy Weaver Teichert, *Better Relief on Way for People in Pain*, SACRAMENTO BEE, May 3, 2003, at A1 (quoting Dr. Robert Brody, chief of the Pain Consultation Clinic at San Francisco General Hospital and a professor of medicine at the University of California, San Francisco).

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 151, at 3 (July 1, 2003); *see* Tom Kisken, *The Power of Pain, Patients Caught in the Middle of Treatment vs. Addiction Debate*, VENTURA COUNTY STAR (California), June 1, 2003, at A1 (explaining that "California law requires doctors to have [twelve] hours of continuing education in end-of-life and pain-management care").

7. *See* Teichert, *supra* note 1, at A1 (quoting Dr. Scott Fishman, chief of the Division of Pain Medicine at U.C. Davis Medical Center).

from a security printer approved by the Board of Pharmacy.[8] According to proponents, Chapter 406 will allow physicians to "more effectively provide pain management and palliative care" by repealing the triplicate requirement.[9] Opponents, on the other hand, argue that the illicit use of prescription drugs is growing and the triplicate forms are a fundamental part of the monitoring system.[10] According to the Department of Justice ("DOJ"), "one-third of illegal drug traffic involves drugs that originated as prescription drugs."[11]

II. EXISTING LAW

A state's authority to govern healthcare is derived from the Tenth Amendment.[12] Constitutional limits have restricted Congress's ability to legislate the practice of medicine.[13] Therefore, Congress must control medical practices by other methods, such as the regulation of drugs.[14] The Commerce Clause gives Congress the power to regulate drugs.[15] Alternatively, through their police powers, states have wide latitude in regulating the general welfare of their citizens, including health law.[16]

Triplicate prescriptions are state monitoring programs in which the prescribing activity of a physician is tracked by special prescription forms.[17] The triplicate forms are issued by the DOJ in serially numbered groups of one hundred forms.[18] The DOJ is required to provide the triplicate forms to any practitioner authorized to prescribe controlled substances "for a fee sufficient to include the costs to the DOJ of preparing, processing, and filing of the forms."[19] The original and the duplicate of the prescription are required to "be delivered to

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8. CAL. HEALTH & SAFETY CODE § 11164 (amended by Chapter 406); *id.* § 11161.5 (enacted by Chapter 406).

9. Bryce Docherty, *CMA Sponsors Bill to Eliminate Triplicate Prescription Requirements, available at* http://www.calphys.org/html/66155.asp (last visited Apr. 17, 2004) (copy on file with the *McGeorge Law Review*).

10. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 151, at 11 (May 6, 2003).

11. Michelle Stowell, *Transmitting Prescriptions Electronically: A Benefit or Burden?*, 32 MCGEORGE L. REV. 742, 744 (2001).

12. *See* Rima J. Oken, Note, *Curing Healthcare Providers' Failure to Administer Opioids in the Treatment of Severe Pain*, 23 CARDOZO L. REV. 1917, 1961 (2002) (stating that since the Constitution does not address healthcare, it is therefore a matter of state concern). The Tenth Amendment states: "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." U.S. CONST. amend. X.

13. Oken, *supra* note 12, at 1961-62.

14. *Id.*

15. *See* U.S. CONST. art. I, § 8, cl. 3 (giving Congress the power to "regulate Commerce with Foreign Nations, and among the several States, and with the Indian tribes").

16. Oken, *supra* note 12, at 1962-63.

17. Docherty, *supra* note 9; CAL. HEALTH & SAFETY CODE § 11164 (amended by Chapter 406).

18. ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 151, at 2 (July 1, 2003) (explaining existing law under Health and Safety Code section 11161).

19. *Id.*

the pharmacist filling the prescription."[20] The duplicate is retained by the pharmacist and the original is filed with the DOJ.[21] In actuality, "very few copies of triplicate forms are . . . entered into the DOJ tracking system, indicating that the . . . triplicate system is not a deterrent to drug diversion."[22] In fact, data from 1998 shows that only 1.7% of triplicate prescription forms were entered into the tracking system for controlling the diversion of medications for nontherapeutic purposes.[23]

A. State Law

In California, Schedule II drugs[24] must be written in ink on a triplicate form provided to doctors by the DOJ.[25] A doctor is exempt from using a triplicate prescription for a Schedule II drug if it is prescribed for a patient in a hospital setting.[26] Instead, the physician must document the medication in the patient's chart, and the hospital is required to maintain that record for at least seven years.[27]

The Controlled Substances Utilization Review Evaluation System ("CURES") program was established on a pilot project basis in 1996 by Assembly Bill 3042[28] to assist law enforcement and regulatory agencies in their efforts to control and restrict the abuse of Schedule II controlled substances.[29] The CURES program provides for the electronic monitoring of the prescribing and dispensing of Schedule II controlled substances.[30] Additionally, an electronic transmission of Schedule II prescription data is sent to the DOJ.[31] The CURES program is administered concurrently with the existing triplicate prescription process in order to compare the two procedures.[32] The comparative assessment between the two systems, which was conducted by the DOJ in consultation with the Board of Pharmacy, assessed the CURES system and its effectiveness in investigating and prosecuting individuals involved in the abuse of controlled substances and the possibility of replacing triplicate prescriptions with a single-copy serialized

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20. *Id.* (explaining prior law under Health and Safety Code section 11164(a)).

21. *Id.*

22. SENATE RULES COMMITTEE, COMMITTEE ANALYSIS OF SB 151, at 8 (June 2, 2003).

23. *Id.*

24. Schedule II drugs (which include morphine, codeine, Demerol, and Percodan) have significant value in treating pain but also have a high potential for abuse if used improperly. SENATE RULES COMMITTEE, COMMITTEE ANALYSIS OF SB 151, at 4 (June 2, 2003).

25. CAL. HEALTH & SAFETY CODE § 11164(a) (amended by Chapter 406).

26. *Id.* § 11159.

27. *Id.* Thus, law enforcement may review that record if the need arises. *Id.*

28. 1996 Cal. Stat. ch. 738.

29. SENATE RULES COMMITTEE, COMMITTEE ANALYSIS OF AB 3042, at 2-3 (Aug. 12, 1996).

30. *Id.* at 2.

31. *Id.* at 2-3.

32. *Id.*

prescription form to cut administrative burdens.[33] Although CURES was initially established in 1996, it was subsequently extended and was next set to expire on July 1, 2008.[34]

B. Federal Law

The Controlled Substances Act ("CSA")[35] is the leading federal law regulating the prescribing of controlled substances.[36] The CSA is administered by the Drug Enforcement Administration ("DEA") in a concurrent effort by Congress to restrict international and domestic traffic in controlled substances while recognizing that certain drugs have a legitimate medical purpose.[37] Through the authority of the DEA, the CSA is involved in the regulation of controlled substances.[38] Both the CSA and federal regulations "do not limit the amount of . . . drug[s] a physician can prescribe."[39] Since the CSA regulations impose no dosage limitations on a physician's ability to prescribe a drug for a patient, it appears the CSA recognizes a physician's professional judgment in the prescribing of Schedule II drugs to patients.[40]

For example, opioids[41] are included in Schedule II of the CSA because of their high potential for abuse.[42] Essentially, the medical value of opioids is recognized by the CSA.[43] However, despite the significant medical value of opioids in the treatment of pain, the potential for abuse creates the belief that opioids are dangerous.[44] Nevertheless, the legitimate use of opioids to treat pain continues to be recognized and accepted by the CSA and federal regulations.[45]

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33. *Id.* at 3.

34. SENATE RULES COMMITTEE, COMMITTEE ANALYSIS OF SB 151, at 5 (June 2, 2003).

35. The Controlled Substances Act of 1970, Pub. L. No. 91-513, 84 Stat. 1242 (1970) (codified as amended at 21 U.S.C.A. §§ 801-971 (West 2000)). *See* 21 U.S.C.A. § 801 (West 2000) (asserting Congress's authority to regulate controlled substances due to the following reasons: many of the drugs within the subchapter "have a . . . legitimate medical purpose and are necessary to maintain . . . the . . . welfare of the American people;" illegal importation of controlled substances has a detrimental effect on the welfare of the American people; many controlled substances commonly flow through interstate traffic; the "substances manufactured and distributed intrastate cannot be differentiated from . . .substances manufactured and distributed interstate;" and "control of intrastate incidents . . . is essential to the effective control of the interstate incidents").

36. Gilah R. Maher, Comment, *Bergman v. Chin: Why an Elder Abuse Case Is a Stride in the Direction of Civil Culpability for Physicians Who Undertreat Patients Suffering from Terminal Pain*, 37 NEW ENG. L. REV. 313, 319 (2003).

37. *Id.* at 319-20.

38. *Id.*

39. *Id.* at 320.

40. *Id.*

41. Opioids are a natural drug derived from opium which is used in the treatment of moderate to severe pain. *Id.* at 319-20.

42. *Id.*

43. *Id.* at 320.

44. *Id.*

45. *Id.*

III. CHAPTER 406

Triplicate prescriptions are found to be burdensome by physicians for several reasons ranging from the difficulty involved in obtaining the prescriptions to a physician's fear of scrutiny from law enforcement.[46] Chapter 406 reduces these burdens by requiring all prescriptions for controlled substance to be written on secure, forgery-resistant forms.[47]

Chapter 406 eliminates the triplicate prescription requirement for Schedule II controlled substances on and after July 1, 2004, and requires prescribers of Schedule II substances to meet the same prescription requirements imposed on other controlled substances.[48] Chapter 406 requires that prescriptions for *any* controlled substances be issued on a form obtained from a security printer that has been approved by the Board of Pharmacy.[49] Furthermore, Chapter 406 makes it a misdemeanor to counterfeit, knowingly possess or obtain under false pretenses, or fraudulently produce a controlled substance prescription.[50] Chapter 406 also requires that physicians keep a log of prescriptions dispensed and submit the log to the DOJ on a monthly basis.[51] In addition, Chapter 406 provides for the indefinite continuation of the CURES program.[52]

Moreover, Chapter 406 adds a contingent provision that Schedule III substances[53] be included in the CURES system.[54] This contingency is based upon the availability of funds from the DOJ.[55]

IV. ANALYSIS OF CHAPTER 406

The triplicate prescription requirement creates bureaucratic hassles and limits the prescribing activities of a physician.[56] The restrictive regulations, in effect, leave physicians feeling threatened and fearing harassment and prosecution by enforcement authorities.[57] Moreover, rigid regulations make it harder for people

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46. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 151, at 5 (May 6, 2003).

47. ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 151, at 1 (July 1, 2003).

48. CAL. HEALTH & SAFETY CODE § 11164 (amended by Chapter 406).

49. *Id.* § 11161.5 (enacted by Chapter 406).

50. SENATE RULES COMMITTEE, COMMITTEE ANALYSIS OF SB 151, at 4 (Aug. 18, 2003).

51. *Id.*

52. *Id.* at 3.

53. Schedule III drugs, which include Vicodin, anabolic steroids, codeine with aspirin or Tylenol, have less potential for abuse than Schedule I or II drugs, have an accepted medical use in treatment, and lower potential for physical or psychological dependence. *Id.* at 4.

54. *Id.*

55. *See id.* (explaining that Chapter 406 explicitly prohibits funds from being appropriated from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, or the Osteopathic Medical Board of California Contingent Fund).

56. Docherty, *supra* note 9.

57. *Id.*

who legitimately need medication to obtain it.[58] For example, studies have shown that cancer-related pain could be controlled in eighty to ninety percent of patients.[59] However, "fewer than [fifty percent] of patients nearing the end of life" had effective pain relief.[60] Additionally, research conducted by the American Pain Society shows that "four out of every ten patients with pain do not receive adequate relief. . . ."[61]

The enactment of Chapter 406 raises both federal drug enforcement and public policy concerns for individuals, medical professionals and law enforcement.[62] "According to the DEA, prescription fraud accounts for" almost 50% of "controlled substances that are diverted to illegal use."[63] Moreover, there has been much controversy regarding effective pain control.[64] Not prescribing enough pain killers is becoming as risky as overprescribing and has led to physicians being sued for not providing enough pain medication.[65]

A. *Federal Drug Enforcement Considerations: The War on Drugs*

The law has played a role in the palliative care crisis since the 1980s when politicians became highly involved in anti-drug campaigns.[66] In his effort to eliminate illicit drug use and trafficking, President Reagan announced his "Just Say No" campaign in 1982.[67] President Reagan's enthusiasm continued into George Bush's presidency and then to the Clinton administration.[68] President George W. Bush launched an enthusiastic anti-drug campaign that is believed to have had an unfavorable impact on palliative care.[69] These approaches of "zero-

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58. *Id.*

59. City of Hope, *Facts Regarding California Triplicate Prescription Requirement, available at* http://www.cityofhope.org/sccpi/Triplicate_FS.htm (last visited June 10, 2003) (copy on file with the *McGeorge Law Review*).

60. *Id.*

61. *Id.*

62. *See* Teichert, *supra* note 1, at A1 (stating that specifics are being negotiated by medical and law enforcement representatives and that advocates of terminally ill patients are hopeful of a solution).

63. Eric M. Peterson, Comment, *Doctoring Prescriptions: Federal Barriers to Combating Prescription Drug Fraud Against On-Line Pharmacies in Washington*, 75 WASH. L. REV. 1331, 1339 (2000); *see also* Letter from John Lovell, Legislative Counsel, California Narcotic Officers' Association to Senator John L. Burton, President Pro Tempore, Cal. State Senate (May 5, 2003) [hereinafter Lovell letter] (on file with the *McGeorge Law Review*) (stating that in the past, one of the major methods of diverting prescription drugs into the illicit market was through counterfeiting or forging the prescription pad).

64. *See* Shannon Tan & Bonnie Harris, *Probe May Give Pause to Doctors; Painkiller Investigation Could Lead Physicians to Underprescribe Strong Medication, Some Worry*, INDIANAPOLIS STAR, Nov. 17, 2002, at 1A (stating that "physicians have been sued and disciplined for not providing enough painkillers").

65. *Id.*

66. Oken, *supra* note 12, at 1940.

67. *Id.*

68. *Id.* at 1941.

69. *Id.*

tolerance" and harsh penalties create challenges in balancing the needs of patients and allowing law enforcement efforts to continue.[70]

As a consequence of these political campaigns, both physicians and patients suffer.[71] Physicians often fear prosecution under both murder and manslaughter statutes and prescription drug regulations.[72] In turn, patients are deprived of desperately needed pain medication.[73] For example, Robert Weitzel, a Utah physician, "was found guilty of manslaughter and negligent homicide for prescribing morphine to five . . . terminally-ill patients."[74] Although medical charts and nurses illustrated that these patients were suffering profusely, the prosecution argued that their pain may have been emotional rather than physical.[75] Weitzel was found guilty of manslaughter despite the fact that many believed he was practicing in a skilled manner.[76] Moreover, in a 1997 New York survey, physicians admitted that they do not prescribe effective medication if the prescriptions would necessitate a state-monitored prescription form such as a triplicate prescription.[77]

B. Public Policy Considerations

1. Will Chapter 406 Provide Relief for Chronic Pain Sufferers?

Supporters of Chapter 406 assert that the current triplicate prescription system is burdensome and, therefore, a significant barrier for patients in need of Schedule II controlled substances.[78] In addition, only three states require controlled substance prescriptions to be written on special forms.[79] California is the only state that requires triplicate forms.[80]

Moreover, "very few copies of triplicate [prescription] forms are actually entered into the DOJ tracking system," confirming that the "triplicate system is not a deterrent to drug diversion."[81] Indeed, in 1998, only 1.7% of Schedule II drugs were entered into the tracking system.[82] States which have eliminated special prescription forms report that they have not encountered increases in

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70. *Id.* at 1942-43.
71. *Id.* at 1943.
72. *Id.*
73. *Id.*
74. *Id.*
75. *Id.* at 1943-44.
76. *Id.* at 1944.
77. *Id.* at 1944-45.
78. SENATE RULES COMMITTEE, COMMITTEE ANALYSIS OF SB 151, at 9 (Aug. 18, 2003).
79. *Id.* at 8.
80. *Id.*
81. *Id.* at 9.
82. *Id.*

prescriptions for controlled substances and cannot provide data to substantiate an increase in diversion.[83]

Doctors say a major barrier to pain management has been the triplicate prescription forms that are required for Schedule II controlled substances.[84] The complexity and scrutiny imposed with these prescriptions are due to concerns that Schedule II drugs will be converted into illegal drugs.[85]

Triplicate prescriptions are burdensome for several reasons. First, physicians may not have the triplicate forms which must be specially issued by the DOJ.[86] Second, physicians may be unfamiliar with the usage of the triplicate forms.[87] Finally, physicians may fear scrutiny of their prescribing activities from law enforcement.[88] Chapter 406 eliminates these burdens by requiring *all* prescriptions for controlled substances to be written on secure, forgery-resistant forms.[89]

Additionally, Chapter 406 requires that Schedule II drugs, and contingent upon available funds, Schedule III drugs, be tracked through the CURES electronic system indefinitely, thereby allowing the continued effort of law enforcement in its endeavor of curtailing drug abuse.[90]

2. *Will Chapter 406 Improve Accessibility for Drug Abuse?*

According to the Attorney General's office, "illicit use of prescription drugs is growing rapidly."[91] Furthermore, "[t]he illegal use of these drugs is growing by at least [27%] each year. . . ."[92] In opposition to Chapter 406, the California

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83. *Id.*

84. Teichert, *supra* note 1, at A1.

85. Stowell, *supra* note 11, at 744.

86. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 151, at 3 (May 6, 2003); *see* Teichert, *supra* note 1, at A1 (explaining that "William Bergman, an 85-year-old retired railroad worker with lung cancer, . . . spent his last days in excruciating pain." Bergman "rated his pain [ten] on a scale of [ten]." When his daughter, Bev Bergman, took him home to die, and later called his doctor for a stronger medication than Vicodin, the doctor told her that he did not have his triplicate pad with him. Bergman sued the doctor "and won a $1.5 million judgment from a jury for elder abuse and negligence in 2001").

87. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 151, at 5 (May 6, 2003).

88. *Id.*

89. ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 151, at 1 (July 1, 2003); *see* CAL. HEALTH & SAFETY CODE § 11162.1 (enacted by Chapter 406) (explaining that the security features on the prescription forms include: a repetitive "void" across the front of the prescription blank which shall appear if the prescription is scanned or photocopied; a watermark on the backside of the prescription blank reading "California Security Prescription;" "A chemical void protection that prevents alteration by chemical washing;" "A feature printed in thermo-chromic ink;" "An area of opaque writing so that writing disappears if the prescription is lightened;" a description of the security features on each form; quantity check off boxes; the preprinted name, category of licensure, license number, and federal controlled substance registration number of the practitioner; and a check box indicating not to substitute).

90. ASSEMBLY COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 151, at 1 (July 1, 2003).

91. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 151, at 11 (May 6, 2003).

92. *See* Ralph Vartabedian, *Doctors to Pay Tab for New Drug Fight; Bush Team Plans to Double Licensing Fees for Physicians, Pharmacies and Manufacturers to Combat the Abuse of Prescription Medicine,*

Attorney General's Office and law enforcement groups believe that triplicate prescription forms are a fundamental element in the drug monitoring system for three reasons.[93] First, due to the 20% error rate in transmission of information by pharmacies, the triplicates are a method of confirming and ensuring the accuracy of information in CURES.[94] Second, the standardized forms lessen the chances of forgery or counterfeiting from occurring.[95] Finally, the serial triplicate forms are a means by which investigators can "track the use of stolen prescription forms and the issuance of prescriptions to persons using multiple names or identities."[96]

Opponents believe the drug monitoring system is in need of serialized standard prescription forms.[97] Furthermore, opponents assert that illegal diversions of Schedule II substances in California and other states would have been detected through the use of serialized forms.[98] Opponents believe that one of the major methods of diverting prescription drugs into the illicit market is through counterfeiting or forging the prescription pad.[99]

3. *A Consensus*

The California Narcotic Officer's Association ("CNOA") participated in an effort to reach a consensus on Chapter 406.[100] According to John Lovell, Legislative Counsel for the CNOA, Chapter 406 contains the elements that must be included to make a prescription pad forgery and counterfeit resistant.[101] Lovell further asserts that Chapter 406 contains elements that are "the most comprehensive in the nation" because of the following: the Board of Pharmacy and DOJ are designated as the agencies authorized to designate private vendors who can produce the prescription pads, either of which can revoke the authority of the private vendor; a requirement that the prescription pads be numbered; and each physician will receive prescriptions with a batch number unique to that physician, numbered from one through sixteen hundred, to protect the physician

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L.A. TIMES, Feb. 11, 2003, at Part I, p. 1 (explaining that prescription drugs are as big an abuse problem as cocaine in terms of the number of abusers).

93. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 151, at 11 (May 6, 2003).

94. *Id.*

95. *See id.* at 11-12 (stating that, "[a]ccording to information provided by the Attorney General's Office, the state of New York reported a 12.5 percent forgery rate of non-serialized prescription pads. Once New York implemented a serialized program, the forgery rate dropped to minimal levels").

96. *See id.* at 12 (referring to examples of illegal diversions of Schedule II substances in California and other states that, in their opinion, would have been detected or were detected through the use of serialized standard prescription forms).

97. *Id.*

98. *Id.*

99. *See* Lovell Letter, *supra* note 63.

100. *Id.*

101. *Id.*

in case of theft.[102] As a result of these requirements, the CNOA changed its previous opposition to Chapter 406 and became a co-sponsor.[103]

Lovell believes that the enactment of Chapter 406 "[placed] California in the vanguard in the development of strategies aimed at preventing diversion of pharmaceuticals into the illicit market."[104] More importantly, "[s]ince the same prescription form will be required regardless of the potency . . . of the . . . medication," Chapter 406 enhances the treatment of patients suffering from chronic pain or illness.[105]

V. CONCLUSION

Chapter 406 will provide better treatment options for patients in severe pain by increasing accessibility to appropriate pain medication.[106] Indeed, by eliminating the triplicate prescription requirement for Schedule II controlled substances and authorizing all controlled substances to be written on a forgery proof prescription form, Chapter 406 will significantly decrease the suffering that patients are forced to endure due to the bureaucracy of triplicate prescription forms.[107] Chapter 406 will further prevent the diversion of controlled substances for illicit use through the forgery resistant prescriptions and indefinite electronic monitoring through the CURES program.[108]

With the dual concern of the substantial increase in drug use and the significant number of patients not receiving effective pain medication, Chapter 406 provides a remarkably balanced approach in addressing the concerns of individuals, medical professionals, and law enforcement.

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102. *Id.*

103. *Id.*

104. *Id.*

105. SENATE COMMITTEE ON PUBLIC SAFETY, COMMITTEE ANALYSIS OF SB 151, at 6 (May 6, 2003).

106. *See* SB 151 (enacted by Chapter 406) (explaining the intent of the legislature).

107. *Id.*

108. *See id.* (explaining that there will no longer be an expiration date for the CURES program which was initially instituted on a three-year pilot basis in 1997 and subsequently extended. The next expiration date for the CURES program was scheduled for 2008.).