

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**SAFEWAY INC., dba
SAFEWAY PHARMACY #1266,
Pharmacy Permit No. PHY 52234,
Pharmacy Permit No. PHY 37147;**

**ANTARA SHERGILL-HIRSH,
Pharmacist License No. RPH 52264;**

and

**DAVID SCOTT CARROLL,
Pharmacist License No. RPH 39533,**

Respondents

Agency Case No. 6518

OAH No. 2020110462

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Reprimand is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on February 2, 2022.

It is so ORDERED on January 3, 2022.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is fluid and cursive, with the first name "Seung" and last name "Oh" being clearly legible.

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 ANDREW M. STEINHEIMER
Supervising Deputy Attorney General
3 State Bar No. 200524
1300 I Street, Suite 125
4 P.O. Box 944255
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6 *Attorneys for Complainant*

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **SAFEWAY INC.,**
13 **dba SAFEWAY PHARMACY #1266**
14 **11290 Donner Pass Road**
Truckee, CA 96161

15 **Pharmacy Permit No. PHY 52234**

16 **Pharmacy Permit No. PHY 37147**

17 **ANTARA SHERGILL-HIRSH**
18 **P.O. Box 3776**
Incline Village, NV 89450

19 **Pharmacist License No. RPH 52264,**

20 **and**

21 **DAVID SCOTT CARROLL**
22 **9001 Poplar Hollow Way**
Elk Grove, CA 95624-9489

23 **Pharmacist License No. RPH 39533**

24 Respondents.

Case No. 6518

OAH No. 2020110462

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL AS TO RESPONDENT
SAFEWAY, INC., dba SAFEWAY
PHARMACY #1266

[Bus. & Prof. Code § 495]

25
26
27 IT IS HEREBY STIPULATED AND AGREED by and between Complainant and
28 Respondent Safeway, Inc., dba Safeway Pharmacy #1266 that the following matters are true:

1 **PARTIES**

2 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
3 (Board). She brought this action solely in her official capacity and is represented in this matter by
4 Rob Bonta, Attorney General of the State of California, by Andrew M. Steinheimer, Supervising
5 Deputy Attorney General.

6 2. Respondent Safeway Inc., dba Safeway Pharmacy #1266 is represented in this
7 proceeding by attorney Alissa Castaneda whose address is: Quarles & Brady, LLP, One
8 Renaissance Square, Two North Central Avenue, Phoenix, AZ 85004-2391.

9 **JURISDICTION**

10 3. On or about May 17, 1991, the Board issued Pharmacy Permit Number PHY 37147 to
11 Safeway, Inc., doing business as Safeway Pharmacy #1266. This license expired on January 30,
12 2015 due to change in ownership. On or about January 30, 2015, the Board issued Pharmacy
13 Permit No. PHY 52234 to Respondent Safeway, Inc., doing as business as Safeway Pharmacy
14 #1266. The Pharmacy Permit was in full force and effect at all times relevant to the charges
15 brought in Accusation No. 6518 and will expire on January 1, 2022, unless renewed.

16 4. Accusation No. 6518 was filed before the Board and is currently pending against
17 Respondent. The Accusation and all other statutorily required documents were properly served
18 on Respondent on February 3, 2020. Respondent timely filed its Notice of Defense contesting the
19 Accusation. A copy of Accusation No. 6518 is attached as exhibit A and incorporated herein by
20 reference.

21 **ADVISEMENT AND WAIVERS**

22 5. Respondent has carefully read, fully discussed with counsel, and understands the
23 charges and allegations in Accusation No. 6518. Respondent has also carefully read, fully
24 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
25 Order for Public Reproval.

26 6. Respondent is fully aware of its legal rights in this matter, including the right to a
27 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
28 its own expense; the right to confront and cross-examine the witnesses against it; the right to

1 present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel
2 the attendance of witnesses and the production of documents; the right to reconsideration and
3 court review of an adverse decision; and all other rights accorded by the California
4 Administrative Procedure Act and other applicable laws.

5 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
6 every right set forth above.

7 **CULPABILITY**

8 8. Respondent understands and agrees that the charges and allegations in Accusation
9 No. 6518, if proven at a hearing, constitute cause for imposing discipline upon Pharmacy Permit
10 No. PHY 52234 and Pharmacy Permit No. PHY 37147.

11 9. For the purpose of resolving the Accusation without the expense and uncertainty of
12 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a prima
13 facie basis for the charges in the Accusation, and that Respondent hereby gives up its right to
14 contest those charges and that in any future proceeding between the Board and any Respondent,
15 the allegations in the Accusation will be deemed admitted.

16 10. Respondent agrees that its Pharmacy Permits are subject to discipline and it agrees to
17 be bound by the Disciplinary Order below.

18 **CONTINGENCY**

19 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
20 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
21 communicate directly with the Board regarding this stipulation and settlement, without notice to
22 or participation by Respondent or its counsel. By signing the stipulation, Respondentss
23 understands and agrees that it may not withdraw its agreement or seek to rescind the stipulation
24 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
25 as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Repeval
26 shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
27 between the parties, and the Board shall not be disqualified from further action by having
28 considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order for Public Reapproval, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order for Public Reapproval is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order for Public Reapproval may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 52234 and Pharmacy Permit No. PHY 37147 issued to Respondent Safeway Inc., dba Safeway Pharmacy #1266, shall be publicly reapproved by the Board of Pharmacy under Business and Professions Code section 495 in resolution of Accusation No. 6518, attached as exhibit A.

Community Service Donation. Within 60 days of the effective date of the Decision, Respondent shall make a donation in the amount of \$20,000.00 in naloxone or other substance abuse related treatments or services.

Cost Recovery. No later than one year from the effective date of the Decision, Respondent shall pay \$25,000 to the Board for its costs associated with the investigation and enforcement of this matter pursuant to Business and Professions Code Section 125.3. If Respondent fails to pay the Board costs as ordered, Respondent shall not be allowed to renew their Pharmacy Permit until Respondent pays costs in full. In addition, the Board may enforce this order for payment of its costs in any appropriate court, in addition to any other rights the Board may have.

Full Compliance. As a resolution of the charges in Accusation No. 6518, this stipulated

1 settlement is contingent upon Respondent's full compliance with all conditions of this Order. If
2 Respondent fails to satisfy any of these conditions, such failure to comply constitutes cause for
3 discipline, including outright revocation, of Respondent's Pharmacy Permit No. PHY 52234 and
4 Pharmacy Permit No. PHY 52234.

5 **ACCEPTANCE**

6 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public
7 Reproval and have fully discussed it with my attorney, Alissa Brice Castaneda. I understand the
8 stipulation and the effect it will have on my Pharmacy Permits. I enter into this Stipulated
9 Settlement and Disciplinary Order for Public Reproval voluntarily, knowingly, and intelligently,
10 and agree to be bound by the Decision and Order of the Board of Pharmacy.

11
12 DATED: _____

On behalf of SAFEWAY INC., DBA SAFEWAY
PHARMACY #1266; *Respondent*

14
15 I have read and fully discussed with Respondents Safeway Inc., dba Safeway Pharmacy
16 #1266, the terms and conditions and other matters contained in the above Stipulated Settlement
17 and Disciplinary Order for Public Reproval. I approve its form and content.

18 DATED: _____

ALISSA BRICE CASTANEDA
*Attorney for Respondents Safeway,
Inc. and Antara Shergill Hirsh*

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1 settlement is contingent upon Respondent's full compliance with all conditions of this Order. If
2 Respondent fails to satisfy any of these conditions, such failure to comply constitutes cause for
3 discipline, including outright revocation, of Respondent's Pharmacy Permit No. PHY 52234 and
4 Pharmacy Permit No. PHY 52234.

5 **ACCEPTANCE**

6 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public
7 Reapproval and have fully discussed it with my attorney, Alissa Brice Castaneda. I understand the
8 stipulation and the effect it will have on my Pharmacy Permits. I enter into this Stipulated
9 Settlement and Disciplinary Order for Public Reapproval voluntarily, knowingly, and intelligently,
10 and agree to be bound by the Decision and Order of the Board of Pharmacy.

11
12 DATED: 9/11/2021

On behalf of Safeway Inc., D
PHARMACY #1266; Respondent

BA SAFEWAY

14
15 I have read and fully discussed with Respondent Safeway Inc., dba Safeway Pharmacy
16 #1266, the terms and conditions and other matters contained in the above Stipulated Settlement
17 and Disciplinary Order for Public Reapproval. I approve its form and content.

18 DATED: 9/22/2021

Alissa Brice Castaneda
ALISSA BRICE CASTANEDA
Attorney for Respondents
Safeway, Inc. and Antara Shergill-
Hirsh

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Reapproval is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California

ANDREW M. STEINHEIMER
Supervising Deputy Attorney General
Attorneys for Complainant

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Reapproval is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: 9/23/21

Respectfully submitted,

ROB BONTA
Attorney General of California

Andrew Steinheimer

ANDREW M. STEINHEIMER
Supervising Deputy Attorney General
Attorneys for Complainant

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Safeway only Stipulation.docx

Exhibit A

Accusation No. 6518

XAVIER BECERRA
Attorney General of California
DAVID E. BRICE
Supervising Deputy Attorney General
ANDREW M. STEINHEIMER
Deputy Attorney General
State Bar No. 200524
1300 I Street, Suite 125
P.O. Box 944255
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Telephone: (916) 210-7892
Facsimile: (916) 327-8643

Attorneys for Complainant

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 6518

**SAFEWAY INC.,
dba SAFEWAY PHARMACY #1266
11290 Donner Pass Road
Truckee, CA 96161**

A C C U S A T I O N

Pharmacy Permit No. PHY 52234

Pharmacy Permit No. PHY 37147

**ANTARA SHERGILL-HIRSH
P.O. Box 3776
Incline Village, NV 89450**

Pharmacist License No. RPH 52264,

and

**DAVID SCOTT CARROLL
9001 Poplar Hollow Way
Elk Grove, CA 95624-9489**

Pharmacist License No. RPH 39533

Respondents.

///

1 Complainant alleges:

2 **PARTIES**

3 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
4 as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

5 2. On or about May 17, 1991, the Board issued Pharmacy Permit Number PHY 37147 to
6 Safeway, Inc. (Respondent Safeway), doing business as Safeway Pharmacy # 1266. Respondent
7 Antara Shergill-Hirsch was the pharmacist-in-charge (PIC) from December 12, 2010 to March 4,
8 2015. The license expired on January 30, 2015 due to a change in ownership.

9 3. On or about January 30, 2015, the Board issued Pharmacy Permit Number PHY
10 52234 to Respondent Safeway, doing business as Safeway Pharmacy #1266, with Respondent
11 Shergill-Hirsch as PIC. On or about February 14, 2016, David Scott Carroll (Respondent Carroll)
12 replaced Respondent Shergill-Hirsch as the PIC. On or about September 25, 2016, Nicholas Rust
13 replaced Respondent Carroll as the PIC. On or about April 17, 2017, Robert Chan replaced
14 Nicholas Rust as the PIC. The pharmacy permit was in full force and effect at all times relevant
15 to the charges brought herein and will expire on January 1, 2019, unless renewed.

16 4. On or about October 25, 2000, the Board issued Pharmacist License Number RPH
17 52264 to Respondent Shergill-Hirsch. The pharmacist license was in full force and effect at all
18 times relevant to the charges brought herein and will expire on April 30, 2020, unless renewed.

19 5. On or about August 28, 1985, the Board issued Pharmacist License Number RPH
20 39533 to Respondent Carroll. The Pharmacist License was in full force and effect at all times
21 relevant to the charges brought herein and will expire on December 31, 2020, unless renewed.

22 **JURISDICTION**

23 6. This Accusation is brought before the Board under the authority of the following
24 laws. All section references are to the Business and Professions Code (Code) unless otherwise
25 indicated.

26 7. Section 4300 of the Code states, in pertinent part:

27 (a) Every license issued may be suspended or revoked.

28 (b) The board shall discipline the holder of any license issued by the

board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

- (1) Suspending judgment.
- (2) Placing him or her upon probation.
- (3) Suspending his or her right to practice for a period not exceeding one year.
- (4) Revoking his or her license.
- (5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper . . .

8. Section 4300.1 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

STATUTORY AND REGULATORY PROVISIONS

9. Section 4081, subdivision (a), of the Code states:

All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

10. Section 4101, subdivision (a), of the Code states:

A pharmacist may take charge of and act as the pharmacist-in-charge of a pharmacy upon application by the pharmacy and approval by the board. A pharmacist-in-charge who ceases to act as the pharmacist-in-charge of the pharmacy shall notify the board in writing within 30 days of the date of that change in status.

11. Section 4113, subdivision (c), of the Code states that “[t]he pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.”

12. Section 4301 of the Code states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

....

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency

13. Health and Safety Code section 11153, subdivision (a), states:

A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment or as part of an authorized narcotic treatment program, for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use.

14. Health and Safety Code section 11165, subdivision (d), states:

For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following information to the Department of Justice as soon as reasonably possible, but not more than seven days after the date a controlled substance is dispensed, in a format specified by the Department of Justice:

(1) Full name, address, and, if available, telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender, and date of birth of the ultimate user.

(2) The prescriber's category of licensure, license number, national provider identifier (NPI) number, if applicable, the federal controlled substance registration number, and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

(3) Pharmacy prescription number, license number, NPI number, and federal controlled substance registration number.

(4) National Drug Code (NDC) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) International Statistical Classification of Diseases, 9th revision (ICD-9) or 10th revision (ICD-10) Code, if available.

(7) Number of refills ordered.

(8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

(9) Date of origin of the prescription.

(10) Date of dispensing of the prescription.

15. Health and Safety Code section 11170 states that “[n]o person shall prescribe, administer, or furnish a controlled substance for himself.”

16. Title 21, Code of Federal Regulations (CFR), section 1305.05, subdivision (a), states:

A registrant may authorize one or more individuals, whether or not located at his or her registered location, to issue orders for Schedule I and II controlled substances on the registrant's behalf by executing a power of attorney for each such individual, if the power of attorney is retained in the files, with executed Forms 222 where applicable, for the same period as any order bearing the signature of the attorney. The power of attorney must be available for inspection together with other order records.

17. Title 16, California Code of Regulations (CCR), section 1707.1 states:

(a) A pharmacy shall maintain medication profiles on all patients who have prescriptions filled in that pharmacy except when the pharmacist has reasonable belief that the patient will not continue to obtain prescription medications from that pharmacy.

(1) A patient medication record shall be maintained in an automated data processing or manual record mode such that the following information is readily retrievable during the pharmacy's normal operating hours.

(A) The patient's full name and address, telephone number, date of birth (or age) and gender;

(B) For each prescription dispensed by the pharmacy:

1. The name, strength, dosage form, route of administration, if other than oral, quantity and directions for use of any drug dispensed;

2. The prescriber's name and where appropriate, license number, DEA registration number or other unique identifier;

- 1 3. The date on which a drug was dispensed or refilled;
2 4. The prescription number for each prescription; and
3 5. The information required by section 1717.

4 (C) Any of the following which may relate to drug therapy: patient
5 allergies, idiosyncracies, current medications and relevant prior medications including
6 nonprescription medications and relevant devices, or medical conditions which are
7 communicated by the patient or the patient's agent.

8 (D) Any other information which the pharmacist, in his or her
9 professional judgment, deems appropriate.

10 (2) The patient medication record shall be maintained for at least one
11 year from the date when the last prescription was filled.

12 18. Title 16, CCR, section 1714 states, in pertinent part:

13

14 (b) Each pharmacy licensed by the board shall maintain its facilities,
15 space, fixtures, and equipment so that drugs are safely and properly prepared,
16 maintained, secured and distributed. The pharmacy shall be of sufficient size and
17 unobstructed area to accommodate the safe practice of pharmacy . . .

18 19. Title 16, CCR, section 1718 states, in pertinent part:

19 "Current Inventory" as used in Sections 4081 and 4332 of the Business
20 and Professions Code shall be considered to include complete accountability for all
21 dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332 . . .

22 20. Title 16, CCR, section 1761 states:

23 (a) No pharmacist shall compound or dispense any prescription which
24 contains any significant error, omission, irregularity, uncertainty, ambiguity or
25 alteration. Upon receipt of any such prescription, the pharmacist shall contact the
26 prescriber to obtain the information needed to validate the prescription.

27 (b) Even after conferring with the prescriber, a pharmacist shall not
28 compound or dispense a controlled substance prescription where the pharmacist
29 knows or has objective reason to know that said prescription was not issued for a
30 legitimate medical purpose.

31 **COST RECOVERY**

32 21. Section 125.3 of the Code provides, in pertinent part, that a Board may request the
33 administrative law judge to direct a licentiate found to have committed a violation or violations of
34 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
35 enforcement of the case.

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DRUG CLASSIFICATIONS

22. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M). Oxycodone is also a dangerous drug pursuant to section 4022 of the Code and is used to treat pain. "Oxycontin" is a brand name for oxycodone.

23. Morphine is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(L), and is used to treat pain. Morphine is also a dangerous drug pursuant to Code section 4022.

24. "Soma," a brand name for carisoprodol, is a Schedule IV Controlled Substance as designated by Title 21, CFR, section 1308.14, subdivision (c)(6), and is a controlled substance pursuant to Health and Safety Code section 110507, subdivision (d). Soma is used to treat muscle spasms. Soma is also a dangerous drug pursuant to Code section 4022.

25. Methadone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c)(14), and is used to treat pain. Methadone is also a dangerous drug pursuant to Code section 4022.

26. Alprazolam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(1). Alprazolam is also a dangerous drug pursuant to Code section 4022 and is used to treat anxiety. "Xanax" is a brand name for alprazolam.

27. Diazepam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(9). Diazepam is also a dangerous drug pursuant to Code section 4022 and is used to treat anxiety and muscle spasms. "Valium" is a brand name for diazepam.

28. "Percocet" and "Endocet" are brand names for a combination drug containing oxycodone and APAP and are used to treat chronic pain. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M). Oxycodone is also a dangerous drug pursuant to Code section 4022.

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FACTUAL ALLEGATIONS

29. On or about December 15, 2015, the Board received a complaint from J. H., alleging that Safeway Pharmacy #1266 had questionable prescribing and filling practices. J. H. stated that the pharmacy had filled E-Scripts from Lloyd Castello, M. D., who was located in Pomona, California, 400 miles away. On or about November 23, 2015, the pharmacy had dispensed the controlled substances morphine, Oxycontin and carisoprodol to patient Z B that had been prescribed by Dr. Castello (Z B's address was located in Truckee, California).

30. On or about May 2, 2016, Board Inspector P. P. requested and received CURES reports for Z B, J. H., and the pharmacy, including a CURES report covering the time period from May 1, 2013 through May 1, 2016. Between 2013 and 2016, ZB had received controlled substance prescriptions for carisoprodol 350 mg, oxycodone 30 mg, morphine 30 mg, Nuvagil 150 mg, hydromorphone 8 mg, and morphine 100 mg. The primary prescriber was Dr. Costello, whose office was located approximately 515 miles from Safeway Pharmacy #1266.

31. On or about September 19, 2016, inspector P. P. requested and received CURES reports from the Board on the pharmacy and Dr. Costello. Dr. Costello primarily provided controlled substance prescriptions for patients located in Southern California with the exception of ZB. ZB's profile demonstrated the longest distance from Dr. Costello. Some of the other patients also had questionable profiles. Inspector P. P. created various PIVOT tables in order to review areas of non-compliance by the pharmacy or data demonstrating the pharmacy's failure to exercise or implement their best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances and dangerous drugs. The pivot tables showed the patients who received the largest number of controlled substances at the pharmacy. Further, the pivot tables showed that the pharmacy dispensed controlled substances to patients who resided in other states, including Nevada (247 prescriptions), Arizona, Idaho, Washington, Florida and 23 other states. The bulk were in California. The report covered the time period from September 1, 2013 to September 20, 2016. Inspector P. P. made a list of patients with their dates of birth and places of residence in order to pull prescription profiles for the patients from the pharmacy.

1 32. On or about September 21, 2016, Inspector P. P. and Board Inspector J. H. conducted
2 an inspection at the pharmacy and were assisted by pharmacist G. S. G. S. identified himself as a
3 floater pharmacist. Respondent Carroll (Carroll), who was the designated PIC of the pharmacy as
4 of that time, was not present. G. S. informed the inspectors that Carroll left on medical leave on
5 August 15, 2016, and his projected date of return was in November or January 2017. P. P. asked
6 G. S. who the interim PIC was and G. S. stated that they did not have an assigned interim PIC.
7 The Board had no record of a change of PIC or interim PIC as of the date of the inspection. The
8 Board inspectors obtained various documents from the pharmacy, including a biennial inventory
9 of April 30, 2014, and a biennial inventory of May 11, 2016. The inspectors also obtained
10 McKesson Invoices with DEA 222 forms (U. S. Official Order form for Schedule I and II
11 controlled substances), including a DEA 222 form signed by pharmacist Nicholas Rust (Rust)
12 dated August 1, 2016, as well as pharmacist work schedules for August and September 2016.
13 The Board inspectors could not find a power of attorney form for Rust allowing him to order
14 Schedule II controlled substances. The schedules showed that Carroll had not worked at the
15 pharmacy since August 11, 2016. The Board inspector then obtained certain patient profiles.

16 33. Inspector P. P. checked hard copies of controlled substance prescriptions to determine
17 if there were notes written on the copies of any contacts made with prescribers. G. S. checked the
18 notes sections on each of the patient profiles and there was no indication that the prescribers were
19 called to verify medical necessity of the drugs for the patients. G. S. had pharmacy technician
20 B. V. print out various medication profiles, including notes, that were requested by the board
21 inspectors. G. S. explained the pharmacy's process for checking for "red flags" (indications of
22 suspicious prescriptions) to the inspectors. A stamp was placed on the back of the prescriptions.
23 The pharmacist was to check appropriate boxes for the patient in determining whether the
24 prescriptions were legitimate. For example, on one of ZB's prescriptions, several boxes had been
25 checked, including the "cocktail" box and out of area prescriber. Inspector P. P. did not see any
26 documentation on any of the prescriptions she obtained and no evidence that any actions were
27 taken after the pharmacist checked the boxes to verify the legitimacy of most of the controlled
28 substances dispensed. P. P. reviewed the stamps on many of the prescriptions and found that

1 boxes were not checked which would have been appropriate for the prescription. Later, Inspector
2 P. P. created tables to demonstrate that high dose controlled substances were dispensed to patients
3 without any evidence pharmacy staff had communicated with the individual prescribers,
4 including combinations of drugs referred to as “trinity” drugs (combinations of drugs which
5 would be considered at high risk for diversion or abuse, including hydrocodone, alprazolam, and
6 carisoprodol; promethazine/codeine, methylphenidate, and carisoprodol; hydromorphone,
7 carisoprodol and buprenorphine; and methadone, diazepam and tramadol) and “holy trinity”
8 drugs (combinations of the above-listed drugs, but adding oxycodone used with alprazolam and
9 carisoprodol). The tables showed the combinations of drugs that were dispensed to patients,
10 prescriptions that were dispensed to patients who resided out of the area or out of state, and
11 prescriptions that were dispensed to patients with only a post office box address (when physical
12 addresses were required).

13 34. During the inspection, and while pharmacy technician B. V. was printing patient
14 profiles, inspector J. H. was looking through Schedule II controlled substance hardcopy
15 prescriptions and pulling prescriptions for certain patients. J. H. found a Schedule II controlled
16 substance prescription for Carroll. The back label indicated that Carroll had filled the
17 prescription for himself. This was verified by pharmacy technician B. V. who confirmed his
18 initials.

19 35. On or about October 3, 2016, Inspector P. P. received an email from Safeway
20 Supervisor C. P. along with various documents, including a change of PIC application, a power of
21 attorney form for Rust, which was not signed, and acquisition and dispensing data for requested
22 drugs for the time period of April 30, 2014 through May 11, 2016. The drugs had been purchased
23 from distributors McKesson and Cardinal Health. P. P. conducted an audit based on the
24 information provided by C. P. and the biennial inventories. P. P. found that the pharmacy had
25 significant shortages of five controlled substances and notable overages of five controlled
26 substances, as set forth below. Respondent Shergill-Hirsch was the PIC for the pharmacy from
27 September 30, 2014 through February 14, 2016. Carroll was the PIC from February 14, 2016,
28 through September 25, 2016.

36. On or about May 24, 2018, Inspector P. P. sent a fax to the pharmacy requesting hard copies of prescriptions for certain patients as well as notes from the patient profiles. That same day, P. P. received various documents from the pharmacy. P. P. created a table of controlled substances that had been dispensed for various patients to verify lack of medical necessity for the drugs; i.e., prescriptions for medications with no logical connection to the diagnosis or treatment.

RESPONDENT SAFEWAY

FIRST CAUSE FOR DISCIPLINE

(Failure to Report Absence of Pharmacist-in-Charge to Board)

37. Respondent Safeway is subject to disciplinary action for unprofessional conduct pursuant to Code section 4301, subdivision (o), in that Respondent violated Code section 4101, subdivision (a), as follows:

a. On or about September 21, 2016, Respondent failed to notify the Board that pharmacist-in-charge Carroll had been absent from the pharmacy since at least August 15, 2016.

b. On or about September 21, 2016, no interim pharmacist-in-charge was assigned to the pharmacy.

SECOND CAUSE FOR DISCIPLINE

(Failure to Produce Power of Attorney)

38. Respondent Safeway is subject to disciplinary action for unprofessional conduct pursuant to Code section 4301, subdivision (o), in that Respondent violated Title 21, CFR, section 1305.05, subdivision (a), as follows:

a. On or about August 1, 2016, Respondent allowed pharmacist Nicholas Rust to sign a DEA 222 form to order oxycodone drugs without a power of attorney form on file with the pharmacy.

b. On or about October 3, 2016, Respondent submitted the power of attorney form for Nicholas Rust to the Board; however, it was not signed.

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THIRD CAUSE FOR DISCIPLINE

(Failure to Identify Legitimacy of Prescriptions)

39. Respondent Safeway is subject to disciplinary action pursuant to Code section 4301, subdivisions (o) and (j), for unprofessional conduct, in that Respondent violated Health and Safety Code section 11153, subdivision (a), and Title 16, California Code of Regulations, section 1761, as follows: On or about September 21, 2016, pharmacists, while working at Safeway Pharmacy #1266, dispensed controlled substance prescriptions without first verifying a legitimate medical purpose for the drugs. In addition, even when the prescriptions contained uncertainties or irregularities, the pharmacists continued to dispense high dose, higher quantities of controlled substances. Specifically, between April 1, 2014 and September 21, 2016, Respondent's pharmacists filled controlled substances without contacting the prescriber in order to identify the medical necessity prior to dispensing, dispensed drugs to patients who lived long distances from both the pharmacy and the prescribers, and dispensed drugs to patients who lived out of state and obtained prescriptions from Southern California prescribers and then had them filled at the pharmacy:

a. The following prescriptions were issued to patients with no known medical necessity for the drugs, the patients were issued prescriptions of combinations of drugs known as "trinity" or "holy trinity", and there was no documentation of contact with the prescribers for the prescriptions:

Patient initials	Controlled substance:	Prescriber:	Date Issued:
AP	Hydrocode/apap 10/325mg #60 Oxycodone 30mg #180 Clonazepam 2mg #30 Hydrocod/apap 10/325mg #180 Carisoprodol 350mg #90	Rice	4/9/14 4/20/14 4/20/14 4/21/14 4/25/14 and
AP	Hydrocod/apap 10/325mg #180 Oxycodone 30mg #90 to take 6/day Oxycodone 30mg #90-to take every 4hrs Alprazolam 0.5mg	Bouchier	8/2/16 7/22/16 8/3/16 8/6/16 and 8/16/16 9/1/16

Patient initials	Controlled substance:	Prescriber:	Date Issued:
	#5, 15 once daily Oxycodone 30mg #90-one q4h		
CP	Morphine ER 100mg #120 Oxycodone 30mg #180 Carisoprodol 350mg #120	Paul	4/8/14 4/8/14 4/8/14
CP	Morphine ER 100mg #120 Oxycodone 30mg #180 q4h Carisoprodol 350mg #120 Diazepam 10mg #30 1 hs for anxiety	Paul	4/14/16 4/14/16 4/14/16 4/16/16
DVA	Methadone 10mg #450 5 tabs tid Morphine 60mg ER #90-q8h Morphine soln 100mg/5mg 180ml - 1ml q4h Lorazepam 1mg #30 Later, patient had alprazolam and diazepam added to drug list. But the	Barta	4/19/14 4/19/14 4/19/14 5/1/14
DVA	Morphine 100mg/5mg solution 90ml Methadone 10mg #180 Morphine 100mg ER #60 Lorazepam 1mg #30 Patient had cyclobenzaprine, baclofen on current profile	Barta	8/31/16 8/31/16 8/31/16 8/18/16 (Exhibit 14, page 39,40)
DP	Morphine 60mg ER #90 Oxycodone 15mg #180 q4h Carisoprodol 350mg #90	Paul	4/15/14 4/15/14 4/15/14
DP	Morphine 60mg ER #90 Oxycodone 15mg	Paul	4/2/16 4/5/16 4/2/16

Patient initials	Controlled substance:	Prescriber:	Date Issued:
	#200 q4h * Carisoprodol 350mg #90 *Note increased oxy IR 15mg quantity		
PL	Tramadol 50mg #240 -2 q 6h Hydroc/apap 10/325mg #130	Scully	4/23/14 4/26/14
PL	Oxycodone 15mg #200 Tramadol 50mg #150 2 q6h	Pong	2/20/16 started-last date on this record is 7/15/16; still for post- op pain Tramadol: 7/15/16
IM	Oxycodone 20mg #120 Morphine 60mg ER #30 Morphine 15mg ER #30 Morphine 30mg ER #30	Tinkelenberg	5/5/15 5/21/15 6/24/15 6/24/15
IM	Oxycodone 30mg #90 Morphine 30mg ER # 30 then #7 Diazepam 10mg #30 then #6		Oxy on 1/7/16, 2/1/16, 2/13/16 (#18) &3/16/16 MS: 12/2/15, 2/10/16 Diazepam: 12/2/15, 2/10/16
SM	Hydroc/apap 7.5mg/325mg #28 Hydroc/apap 7.5mg/325mg #20	Joseph-Messner	6/4/14 6/9/14
SM	Clonazepam 0.5mg #30 Hydroc/apap 10/325mg #80	Barta Ringers	8/21/16 8/31/16
DC	Hydroc/apap 10/325mg by MC1	Dodd	8/10/16 – PIC filled own RX
DB	Hydroc/apap 10/325mg #15 Diazepam 10mg #10	Liu	4/2/14, 6/19/14 6/19/14
DB	Hydroc/apap 7/5mg/325mg #15 Diazepam 10mg #15	Colpitts	9/20/16 9/20/16
ZB	Carisoprodol 350mg #120 Morphine 100mg ER #150 Oxycodone 30mg	Costello	11/26/14 6/8/15 6/8/15 6/8/15

Patient initials	Controlled substance:	Prescriber:	Date Issued:
	#360 Morphine 30mg ER #30		
ZB	Carisoprodol 350mg #120 Morphine 100mg ER #180 Oxycodone 30mg #360 Morphine 30mg ER #30	Costello – Original complaint	8/2/16 and 8/29/16 8/10/16 8/27/16 8/23/16

b. The following prescriptions were issued to patients who lived out of the area and the patients obtained controlled substances from out of the area prescribers:

Patient initials	Controlled substance:	Prescriber: Address:	Date:	<u>RX number:</u> <u>Comments:</u>
DC Lives in Elk Grove	Hydroco/apap 10mg #70	Dodd Truckee	8/10/16	2171333 Filled for self
SW Lives in Chinese Camp, CA	Oxycodone 30mg #240 28 times in 25 months Other: Alprazolam 0.5mg #30 , tramadol, prometh/codeine, Zolpidem	Decommer Auburn, CA	4/26/14 through 6/1/16	2169094 (Exhibit 22, page 10) 4213049 Xanax (page 11) Distance: 130miles from CC to Auburn. 68 miles from Auburn to Truckee
ZB	Carisoprodol 350mg #120-20 times Morphine 100mg ER #180 -17 times Oxycodone 30mg #360- 17 times Morphine 30mg ER #30 – 14 times <i>Refer to Exhibit 21</i>	Costello Pomona, CA	7/5/14 thru 9/8/16	2169138 electronic 2169137 electronic 2171216 2171215 2171214 Electronic for Morphine RXs 4213048 – Soma 2169139 – oxy 30 MS 30mg directions was to crush in cream 11 times then switched to oral

Patient initials	Controlled substance:	Prescriber: Address:	Date:	<u>RX number:</u> <u>Comments:</u>
AP Truckee, CA	Hydrocod/apap 10/325mg #180- 31 times Oxycodone 30mg #90 to take 6/day Oxycodone 30mg #90-to take every 4hrs – 48 times Alprazolam 0.5mg #5, 15 once daily - twice Clonazepam 2mg #30 – 3 times <i>Refer to Exhibit 12</i>	Bouchier Grass Valley, CA	4/9/14 through 9/2/16	2171277 - oxycodone 2171274- hydro/apap Diagnosis on one RX: chronic pain 56 miles, over one hour drive from Grass Valley to Truckee MD is family practice
TM Graeagle, CA	Endocet 10/325mg #60 or #80- 3 times Morphine ER 15mg #50 1x Oxycodone 5mg #60 1x Oxycod/apap 5/325mg #60, 80 or 50 – 6 times	Dodd Truckee, CA	5/21/16 through 9/15/16	2171338 2171144 Distance: 57 minutes (45.5miles) from Graeagle, CA to Truckee
VR Sioux Falls, SD	Hydroco/apap 5/325mg #30	Monroe Santa Ana, CA	8/1/16	2171262 Rx was verified but no comment why from SD to Santa Ana to Truckee. Distance from MD to Truckee: 8.5 hours
DW Loyalton, CA PO BOX, no address	Methadone 10mg #120 9 times Hydro/apap #180 -25 times Alprazolam .25mg #30 – 19 times Diazepam 10mg #60 Carisoprodol 350mg #60 Butalbital/apap #30 Methadone 5mg #60 Phentermine All the above were prescribed	Kim, M Portola, CA	4/3/14 through 9/19/16	2171352 2171353 2171354 2170333 All electronic Distance: 27 miles from Loyalton to Portola. 1 pharmacy in Loyalton. 1 in Portola. 2 in Quincy 46 minutes or 1.25hrs depending on route from

Patient initials	Controlled substance:	Prescriber: Address:	Date:	<u>RX number:</u> <u>Comments:</u>
	together and taken at some point at the same time per profile.			Loyalton to Truckee.
JC San Marcos, CA	Oxy/apap 10/325mg #240	Kaime MD Truckee CA center	4/10/14	2171355 When asked RPH why there was no contact with prescriber; the answer was one of assumption because oxy/apap came from cancer center.
JL Las Vegas, NV Only a PO Box on patient profile.	Methadone 10mg #90	Fedor MD Santa Barbara, CA	7/19/16	2171169 Distance: 359miles from LV to Santa Barbara- 5.25 hours. 493 miles from SB to Truckee. NOTE: DL says patient is from Florida!
MA Grass Valley, CA	Oxy/apap 10/325mg #150, 60, 100 Hydroco/apap 10/325 #60,90,100, Carisoprodol 350mg #60 Diazepam 10mg #30, 60 Starting on 12/3/15, pt advised to wean on oxy/apap; instead, quantities increased and there are no notes to address.	Picetti Sacramento, CA Spine specialist With Yee, M MD.	3/20/15 through 4/22/16	2170372- oxy/apap on 3/24/16 Distance: I observed it could be reasonable to see a spine specialist in Sacramento and patient lives in GV. However, the travel from Sacramento via Truckee was questionable.

Patient initials	Controlled substance:	Prescriber: Address:	Date:	<u>RX number:</u> <u>Comments:</u>
PL Truckee, CA	Oxycodone 15mg #200	Hindle PA SFO, CA Spine institute	7/11/16	2171151 Issue: The security feature: RX is supposed to change with heat and did not. I had RPH Speicher try. It did not change.
AS Novato, CA	Lorazepam 1mg #30 or #40 -16 times in 13 months	Kreiss Fremont, CA	Last on this record: 9/9/16 Range: 7/10/15 through 9/19/16	4213540 Distance: 59 miles from Novato to Fremont. 177 miles from Novato to Truckee
KD Grass Valley, CA	Endocet 10/325mg #42 Zolpidem 10mg #20 Alprazolam 0.5mg #30	Anton, Mark Newport Beach, CA	9/23/15	2168700 4211697 4211698 Distance: 531 miles from Newport Beach to Truckee. I googled MD: Aesthetics MD. No notes to explain why patient received meds in Truckee and not GV.

c. The following prescriptions were issued to patients who lived out of state and/or the prescriber was from out of state:

Patient initials	Controlled Substance:	Prescriber:	Date:
KS Sammanish, WA	Tramadol 50mg	Auerbach, P ER MD at Stanford hospital	8/23/15 Distance: 219 miles from Stanford to Truckee.
NP Charlotte, NC	Hydroc/apap 5/325mg #50	Cahill, K Santa Barbara, CA	7/15/16 RX2171150 Distance:

			493 miles from Santa Barbara to Truckee.
PL Surprise, AZ	Oxycodone 5mg #60 Lorazepam 0.5mg #6	Martin, P S. Lake Tahoe Scholnick, J Truckee	7/14/16 RX 2171147 on secure form. RX 4213329 Distance: 44 miles or 1.25 hrs from Tahoe to Truckee
DM Florence AZ	Hydroc/apap 7.5mg/325mg #60 Tramadol 50mg #60	Osgood Truckee and Jackson, CA	2168510 on 9/2/15, 6/4/15, and 8/8/14 Note: pharmacy should have called to see why person out of state was seeing this MD in Truckee
PB DOB: 12/15/54 Reno, NV	Adderall 10mg #30 -3 times Alprazolam 1mg #75 – 7 times Oxycodone 10mg #180 – 1x Oxycodone 15mg #170, 250 – 2 times Endocet 10/325mg #180 4 times	Paul, G Truckee, CA Family practice MD	2171212 on 7/30/16 4213300 on 7/25/16 2170798 on 5/21/16 Distance: Patient address in Reno, gets controlled substances from MD in Truckee. NO medical justification for amphetamine with pain meds but no calls to prescriber. 40 miles
OB Incline village NV	Hydroc/apap 5/325mg #30	Astengo, S ER physician, closest in S. Lake Tahoe, CA	2166938 on 3/3/15
NA Miami, FL	Hydromorphone 2mg #75 Tramadol 50mg # 50	Ringnes, A Truckee, CA	2170296 4212664 Both on 3/15/16 No notes
MH Sequim, WA	Testosterone 50mg packets #450 Androgel 450gm	Reichert, J Joseph Drew Both from- Reno, NV	4212670 on 3/17/16 4211420 on 12/9/15 RPH should have questioned address from WA to NV to CA to fill.
LM Sun Valley, NV	Methadone 10mg #210 (7 per day)- filled 10 times	Hamblin, B Point Reyes Station, CA	2167507 2167768 Date range: 6/25/14 through 6/5/15. I did not check CURES to see gaps. 231 miles from Sun

			Valley to Point Reyes Station. 38 miles from Sun Valley to Truckee but must pass through Reno, NV
KB Lumberton, MS DOB: 7/27/85	Adderall XR 30mg #30	William Alan Davis (when I googled name only found one in Bethesda, MD)	2168035 on 7/9/15
AP Dublin, CA DOB 7/5/95	Oxycodone 5mg #90 Notable directions: 1 to 3 every 4 hours.	Buchanan, D Reno, NV	2171025 on 6/26/16 This was a 20 y.o. who is from Dublin getting high dose oxycodone. 186 miles from Dublin to Truckee. 218 miles from Dublin to Reno, NV
JJ Kellogg, ID DOB: 9/18/84	Buprenorphine 8mg #90 x2 Clonazepam 1mg #90	Carraher md Post Falls ID DEA does not begin with an 'X'	Filled 10/14/15 and 9/10/15. Distance for patient to travel to MD: 45 miles. Because of patient age, address and possible no access to CURES, RPH should have called.
EP Newton Center, MA DOB 5/12/92	Hydroc/apap 5/325mg #30	Jowers, C ER MD at Portola and Truckee, CA	Rx 2168250 on 8/2/15 Note: probably ER RX but pharmacy did not inquire as to medical necessity for a person out of state
JH Fort Myers, FL DOB 9/20/85	Oxycodone 5mg #100	Coll, Daniel Records show he is a PA at Truckee hospital and in Reno, NV	2168348 on 8/14/15 Note: this was a large quantity and out of state patient with no verification by RPH on profile.
JC Reno, NV DOB 11/16/70	Hydroc/apap 10/325mg #30, 20, 40, etc. at least 10 times with Alprazolam 1mg #30 – 7 times (+other strengths) And	Barta, G Truckee, CA J. Dodd Truckee, CA	Patient travels from Reno, NV to Truckee to see MDs And to this pharmacy. Distance/time: 30 minutes

	Adderall XR 30mg #30 – 13 times		
EE Katy, TX DOB 9/11/73	Hydro/apap 7.5/325mg #20	Quammen, A Truckee, CA	Appeared given with drug for cold sore outbreak?
EG Colorado Springs, CO DOB 3/22/88	Hydro/apap 10/325mg #60 on 3/7/16	Ringer, A Cincinnati, OH	RX2170221 This RX should have been sent to the patients address in Colorado if information correct.

FOURTH CAUSE FOR DISCIPLINE

(Erroneous Report to CURES)

40. Respondent Safeway is subject to disciplinary action pursuant to Code section 4301, subdivisions (o) and (j), for unprofessional conduct, in that Respondent violated Health and Safety Code section 11165, subdivision (d)(2), as follows: On or about March 7, 2016, Respondent dispensed prescription number 2170221 for patient EG under the name of Dr. Ringer located in Cincinnati, Ohio, instead of the prescriber identified on the prescription, A. Ringnes, M. D. located in Truckee, California.

FIFTH CAUSE FOR DISCIPLINE

(Furnishing Controlled Substances to Oneself)

41. Respondent Safeway is subject to disciplinary action pursuant to Code section 4301, subdivisions (o) and (j), for unprofessional conduct, in that Respondent violated Health and Safety Code section 11170, as follows: On or about August 10, 2016, Respondent's pharmacist-in-Charge, David Scott Carroll, while working at Safeway Pharmacy #1266, filled, verified and dispensed prescription number 2171333 for 70 tablets of hydrocodone/APAP 10/325 mg for himself.

SIXTH CAUSE FOR DISCIPLINE

(Shortages of Controlled Substances)

42. Respondent Safeway is subject to disciplinary action pursuant to Code section 4301, subdivisions (o) and (j), for unprofessional conduct, in that Respondent failed to maintain the pharmacy and its facilities, space, fixtures and/or equipment so that drugs were safely and

properly secured, in violation of Code section 4081, subdivision (a), Title 21, CFR, section 1304 and Title 16, CCR, sections 1714, subdivision (b), and 1718, as follows: On and between April 30, 2014 and May 11, 2016, Respondent failed to maintain its premises so that drugs were secured from theft or other types of losses, resulting in significant shortages of controlled substances, specifically 201 tablets of hydrocodone/APAP 10/325 mg, 217 tablets of oxycodone/APAP 10/325 mg, 168 tablets of zolpidem 10 mg, 370 tablets of oxycodone 30 mg, and 97 tablets of Oxycontin 30 mg.

SEVENTH CAUSE FOR DISCIPLINE

(Overages of Controlled Substances)

43. Respondent Safeway is subject to disciplinary action pursuant to Code section 4301, subdivisions (o) and (j), for unprofessional conduct, in that Respondent failed to maintain the pharmacy and its facilities, space, fixtures and/or equipment so that drugs were safely and properly secured, in violation of Code section 4081, subdivision (a), and Title 16, CCR, sections 1714, subdivision (b), and 1718, as follows: On and between April 30, 2014 and May 11, 2016, Respondent failed to maintain its premises so that drugs were secured from theft or other types of losses, resulting in overages of controlled substances, specifically 340 tablets of Norco 10/325 mg, 4 tablets of hydrocodone/APAP 5/325 mg, 181 tablets of methadone 10 mg, 781 tablets of Endocet 10/325 mg and 34 tablets of oxycodone 10 mg.

EIGHTH CAUSE FOR DISCIPLINE

(Duty to Maintain Patient Profiles)

44. Respondent Safeway is subject to disciplinary action pursuant to Code section 4301, subdivision (o), for unprofessional conduct, in that Respondent violated Title 16, CCR, section 1707.1, subdivision (a), as follows: On and between April 1, 2014 and September 21, 2016, Respondent failed to obtain physical addresses for patients who were dispensed Schedule II

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through IV controlled substances and instead obtained post office boxes for the following patients:

Patient initials	Controlled substances dispensed:	MD	Date of RX	RX number/ Comments:
JL Las Vegas, NV Only a PO Box on patient profile.	Methadone 10mg #90	Fedor MD Santa Barbara, CA	7/19/16	2171169 Distance: 359miles from LV to Santa Barbara- 5.25 hours. 493 miles from SB to Truckee. NOTE: DL says he is from Florida.
SS PO Box Truckee	Diazepam 10mg #65 Morphine 15mg ER #90 Endocet 10/325mg #100	Kim, M	Diazepam 4/14/14 - 7/19/16 MS ER: 1/28/15 - 7/7/16 Endocet: 4/28/14 – 7/7/16	No notes on patient profile
CO PO Box Loyalton, CA	Alprazolam 1mg #90 Carisoprodol 350mg #30 Hydrocode/apap 10/325mg #180 This is considered the “trinity” or an opioid cocktail by Safeway	Lombard	Alprazolam:4/25/14 -8/28/16 Carisoprodol: 4/9/14 – 9/16/16 Hydroc/apap: 4/25/14 – 2/25/16	Not only was there no address but the combination is considered a red flag. I counted at least 10 RPH who filled for this patient and none addressed these issues.
KS PO Box Soda Springs, CA	Methyphenidate ER 54mg #30 Methylphenidate 10mg #30 Clonazepam x1 Bupropion XL x1		4/7/14 – 9/15/16	DOB: 3/30/66: For the 2+ years this was the patients’ profile – no notes, no address, no DX
DW PO Box Truckee, CA	Hydroc/apap 10/325mg #120 Carisoprodol 350mg #90 Alprazolam 0.25mg #30 Oxycontin 40mg #90	Lombard	4/10/14 – 8/31/16	This combination is considered a red flag and referred to as the ‘holy trinity’ Not only did the pharmacy not know where the

Patient initials	Controlled substances dispensed:	MD	Date of RX	RX number/ Comments:
				person lived but did not know medical necessity.

RESPONDENT ANTARA SHERGILL-HIRSH

NINTH CAUSE FOR DISCIPLINE

(Shortages of Controlled Substances)

45. Respondent Shergill-Hirsh is subject to disciplinary action pursuant to Code section 4301, subdivisions (o) and (j), for unprofessional conduct, in that Respondent, as pharmacist-in-charge for Respondent Safeway, failed to maintain the pharmacy and its facilities, space, fixtures and/or equipment so that drugs were safely and properly secured, in violation of Code section 4081, subdivision (a), Title 21, CFR, section 1304 and Title 16, CCR, sections 1714, subdivision (b), and 1718, as follows: On and between April 30, 2014 and May 11, 2016, Respondent Shergill-Hirsh failed to maintain the pharmacy's premises so that drugs were secured from theft or other types of losses, resulting in significant shortages of controlled substances, specifically 201 tablets of hydrocodone/APAP 10/325 mg, 217 tablets of oxycodone/APAP 10/325 mg, 168 tablets of zolpidem 10 mg, 370 tablets of oxycodone 30 mg, and 97 tablets of Oxycontin 30 mg.

TENTH CAUSE FOR DISCIPLINE

(Overages of Controlled Substances)

46. Respondent Shergill-Hirsh is subject to disciplinary action pursuant to Code section 4301, subdivisions (o) and (j), for unprofessional conduct, in that Respondent, as pharmacist-in-charge for Respondent Safeway, failed to maintain the pharmacy and its facilities, space, fixtures and/or equipment so that drugs were safely and properly secured, in violation of Code section 4081, subdivision (a), and Title 16, CCR, sections 1714, subdivision (b), and 1718, as follows: On and between April 30, 2014 and May 11, 2016, Respondent Shergill-Hirsh failed to maintain the pharmacy's premises so that drugs were secured from theft or other types of losses, resulting

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in overages of controlled substances, specifically 340 tablets of Norco 10/325 mg, 4 tablets of hydrocodone/APAP 5/325 mg, 181 tablets of methadone 10 mg, 781 tablets of Endocet 10/325 mg and 34 tablets of oxycodone 10 mg.

ELEVENTH CAUSE FOR DISCIPLINE

(Failure to Identify Legitimacy of Prescriptions)

47. Respondent Shergill-Hirsh is subject to disciplinary action pursuant to Code section 4301, subdivisions (o) and (j), for unprofessional conduct, in that Respondent, as pharmacist-in-charge for Respondent Safety, violated Health and Safety Code section 11153, subdivision (a), and Title 16, California Code of Regulations, section 1761, as follows: On or about September 21, 2016, pharmacists, while working at Safeway Pharmacy #1266, dispensed controlled substance prescriptions without first verifying a legitimate medical purpose for the drugs. In addition, even when the prescriptions contained uncertainties or irregularities, the pharmacists continued to dispense high dose, higher quantities of controlled substances. Specifically, between April 1, 2014 and September 21, 2016, pharmacists filled controlled substances without contacting the prescriber in order to identify the medical necessity prior to dispensing, dispensed drugs to patients who lived long distances from both the pharmacy and the prescribers, and dispensed to patients who lived out of state and obtained prescriptions from Southern California prescribers and then had them filled at the pharmacy:

a. The following prescriptions were issued to patients with no known medical necessity for the drugs, the patients were issued prescriptions of combinations of drugs known as “trinity” or “holy trinity”, and there was no documentation of contact with the prescribers for the prescriptions:

Patient initials	Controlled substance:	Prescriber:	Date Issued:
AP	Hydrocode/apap 10/325mg #60 Oxycodone 30mg #180 Clonazepam 2mg #30 Hydrocod/apap 10/325mg #180 Carisoprodol 350mg #90	Rice	4/9/14 4/20/14 4/20/14 4/21/14 4/25/14 and

Patient initials	Controlled substance:	Prescriber:	Date Issued:
AP	Hydrocod/apap 10/325mg #180 Oxycodone 30mg #90 to take 6/day Oxycodone 30mg #90-to take every 4hrs Alprazolam 0.5mg #5, 15 once daily Oxycodone 30mg #90-one q4h	Bouchier	8/2/16 7/22/16 8/3/16 8/6/16 and 8/16/16 9/1/16
CP	Morphine ER 100mg #120 Oxycodone 30mg #180 Carisoprodol 350mg #120	Paul	4/8/14 4/8/14 4/8/14
CP	Morphine ER 100mg #120 Oxycodone 30mg #180 q4h Carisoprodol 350mg #120 Diazepam 10mg #30 1 hs for anxiety	Paul	4/14/16 4/14/16 4/14/16 4/16/16
DVA	Methadone 10mg #450 5 tabs tid Morphine 60mg ER #90-q8h Morphine soln 100mg/5mg 180ml - 1ml q4h Lorazepam 1mg #30 Later, patient had alprazolam and diazepam added to drug list. But the	Barta	4/19/14 4/19/14 4/19/14 5/1/14
DVA	Morphine 100mg/5mg solution 90ml Methadone 10mg #180 Morphine 100mg ER #60 Lorazepam 1mg #30 Patient had cyclobenzaprine, baclofen on current profile	Barta	8/31/16 8/31/16 8/31/16 8/18/16 (Exhibit 14, page 39,40)

Patient initials	Controlled substance:	Prescriber:	Date Issued:
DP	Morphine 60mg ER #90 Oxycodone 15mg #180 q4h Carisoprodol 350mg #90	Paul	4/15/14 4/15/14 4/15/14
DP	Morphine 60mg ER #90 Oxycodone 15mg #200 q4h * Carisoprodol 350mg #90 *Note increased oxy IR 15mg quantity	Paul	4/2/16 4/5/16 4/2/16
PL	Tramadol 50mg #240 -2 q 6h Hydroc/apap 10/325mg #130	Scully	4/23/14 4/26/14
PL	Oxycodone 15mg #200 Tramadol 50mg #150 2 q6h	Pong	2/20/16 started-last date on this record is 7/15/16; still for post- op pain Tramadol: 7/15/16
IM	Oxycodone 20mg #120 Morphine 60mg ER #30 Morphine 15mg ER #30 Morphine 30mg ER #30	Tinkelenberg	5/5/15 5/21/15 6/24/15 6/24/15
IM	Oxycodone 30mg #90 Morphine 30mg ER # 30 then #7 Diazepam 10mg #30 then #6		Oxy on 1/7/16, 2/1/16, 2/13/16 (#18) &3/16/16 MS: 12/2/15, 2/10/16 Diazepam: 12/2/15, 2/10/16
SM	Hydroc/apap 7.5mg/325mg #28 Hydroc/apap 7.5mg/325mg #20	Joseph-Messner	6/4/14 6/9/14
SM	Clonazepam 0.5mg #30 Hydroc/apap 10/325mg #80	Barta Ringers	8/21/16 8/31/16
DC	Hydroc/apap 10/325mg by MC1	Dodd	8/10/16 – PIC filled own RX

Patient initials	Controlled substance:	Prescriber:	Date Issued:
DB	Hydroc/apap 10/325mg #15 Diazepam 10mg #10	Liu	4/2/14, 6/19/14 6/19/14
DB	Hydroco/apap 7/5mg/325mg #15 Diazepam 10mg #15	Colpitts	9/20/16 9/20/16
ZB	Carisoprodol 350mg #120 Morphine 100mg ER #150 Oxycodone 30mg #360 Morphine 30mg ER #30	Costello	11/26/14 6/8/15 6/8/15 6/8/15
ZB	Carisoprodol 350mg #120 Morphine 100mg ER #180 Oxycodone 30mg #360 Morphine 30mg ER #30	Costello – Original complaint	8/2/16 and 8/29/16 8/10/16 8/27/16 8/23/16

b. The following prescriptions were issued to patients who lived out of the area and the patients obtained controlled substances from out of the area prescribers:

Patient initials	Controlled substance:	Prescriber: Address:	Date:	<u>RX number:</u> <u>Comments:</u>
DC Lives in Elk Grove	Hydroco/apap 10mg #70	Dodd Truckee	8/10/16	2171333 Filled for self
SW Lives in Chinese Camp, CA	Oxycodone 30mg #240 28 times in 25 months Other: Alprazolam 0.5mg #30 , tramadol, prometh/codeine, zolpidem	Decommer Auburn, CA	4/26/14 through 6/1/16	2169094 (Exhibit 22, page 10) 4213049 Xanax (page 11) Distance: 130miles from CC to Auburn. 68 miles from Auburn to Truckee
ZB	Carisoprodol 350mg #120-20 times Morphine 100mg ER #180 -17 times Oxycodone 30mg #360- 17 times	Costello Pomona, CA	7/5/14 thru 9/8/16	2169138 electronic 2169137 electronic 2171216 2171215 2171214 Electronic for

Patient initials	Controlled substance:	Prescriber: Address:	Date:	<u>RX number:</u> <u>Comments:</u>
	Morphine 30mg ER #30 – 14 times <i>Refer to Exhibit 21</i>			Morphine RXs 4213048 – Soma 2169139 – oxy 30 MS 30mg directions was to crush in cream 11 times then switched to oral
AP Truckee, CA	Hydrocod/apap 10/325mg #180- 31 times Oxycodone 30mg #90 to take 6/day Oxycodone 30mg #90-to take every 4hrs – 48 times Alprazolam 0.5mg #5, 15 once daily - twice Clonazepam 2mg #30 – 3 times <i>Refer to Exhibit 12</i>	Bouchier Grass Valley, CA	4/9/14 through 9/2/16	2171277 - oxycodone 2171274- hydro/apap Diagnosis on one RX: chronic pain 56 miles, over one hour drive from Grass Valley to Truckee MD is family practice
TM Graeagle, CA	Endocet 10/325mg #60 or #80- 3 times Morphine ER 15mg #50 1x Oxycodone 5mg #60 1x Oxycod/apap 5/325mg #60, 80 or 50 – 6 times	Dodd Truckee, CA	5/21/16 through 9/15/16	2171338 2171144 Distance: 57 minutes (45.5miles) from Graeagle, CA to Truckee
VR Sioux Falls, SD	Hydroco/apap 5/325mg #30	Monroe Santa Ana, CA	8/1/16	2171262 Rx was verified but no comment why from SD to Santa Ana to Truckee. Distance from MD to Truckee: 8.5 hours
DW Loyalton, CA PO BOX, no address	Methadone 10mg #120 9 times Hydro/apap #180 -25 times Alprazolam .25mg #30 – 19	Kim, M Portola, CA	4/3/14 through 9/19/16	2171352 2171353 2171354 2170333 All electronic

Patient initials	Controlled substance:	Prescriber: Address:	Date:	<u>RX number:</u> <u>Comments:</u>
	times Diazepam 10mg #60 Carisoprodol 350mg #60 Butalbital/apap #30 Methadone 5mg #60 Phentermine All the above were prescribed together and taken at some point at the same time per profile.			Distance: 27 miles from Loyalton to Portola. 1 pharmacy in Loyalton. 1 in Portola. 2 in Quincy 46 minutes or 1.25hrs depending on route from Loyalton to Truckee.
JC San Marcos, CA	Oxy/apap 10/325mg #240	Kaime MD Truckee CA center	4/10/14	2171355 When asked RPH why there was no contact with prescriber; the answer was one of assumption because oxy/apap came from cancer center.
JL Las Vegas, NV Only a PO Box on patient profile.	Methadone 10mg #90	Fedor MD Santa Barbara, CA	7/19/16	2171169 Distance: 359miles from LV to Santa Barbara- 5.25 hours. 493 miles from SB to Truckee. NOTE: DL says patient is from Florida!
MA Grass Valley, CA	Oxy/apap 10/325mg #150, 60, 100 Hydroco/apap 10/325 #60,90,100, Carisoprodol 350mg #60 Diazepam 10mg #30, 60	Picetti Sacramento, CA Spine specialist With Yee, M MD.	3/20/15 through 4/22/16	2170372- oxy/apap on 3/24/16 Distance: I observed it could be reasonable to see a spine specialist in Sacramento and patient lives

Patient initials	Controlled substance:	Prescriber: Address:	Date:	<u>RX number:</u> <u>Comments:</u>
	Starting on 12/3/15, pt advised to wean on oxy/apap; instead, quantities increased and there are no notes to address.			in GV. However, the travel from Sacramento via Truckee was questionable.
PL Truckee, CA	Oxycodone 15mg #200	Hindle PA SFO, CA Spine institute	7/11/16	2171151 Issue: The security feature: RX is supposed to change with heat and did not. I had RPH Speicher try. It did not change.
AS Novato, CA	Lorazepam 1mg #30 or #40 -16 times in 13 months	Kreiss Fremont, CA	Last on this record: 9/9/16 Range: 7/10/15 through 9/19/16	4213540 Distance: 59 miles from Novato to Fremont. 177 miles from Novato to Truckee
KD Grass Valley, CA	Endocet 10/325mg #42 Zolpidem 10mg #20 Alprazolam 0.5mg #30	Anton, Mark Newport Beach, CA	9/23/15	2168700 4211697 4211698 Distance: 531 miles from Newport Beach to Truckee. I googled MD: Aesthetics MD. No notes to explain why patient received meds in Truckee and not GV.

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c. The following prescriptions were issued to patients who lived out of state and/or the prescriber was from out of state:

Patient initials	Controlled Substance:	Prescriber:	Date:
KS Sammanish, WA	Tramadol 50mg	Auerbach, P ER MD at Stanford hospital	8/23/15 Distance: 219 miles from Stanford to Truckee.
NP Charlotte, NC	Hydroc/apap 5/325mg #50	Cahill, K Santa Barbara, CA	7/15/16 RX2171150 Distance: 493 miles from Santa Barbara to Truckee.
PL Surprise, AZ	Oxycodone 5mg #60 Lorazepam 0.5mg #6	Martin, P S. Lake Tahoe Scholnick, J Truckee	7/14/16 RX 2171147 on secure form. RX 4213329 Distance: 44 miles or 1.25 hrs from Tahoe to Truckee
DM Florence AZ	Hydroc/apap 7.5mg/325mg #60 Tramadol 50mg #60	Osgood Truckee and Jackson, CA	2168510 on 9/2/15, 6/4/15, and 8/8/14 Note: pharmacy should have called to see why person out of state was seeing this MD in Truckee
PB DOB: 12/15/54 Reno, NV	Adderall 10mg #30 -3 times Alprazolam 1mg #75 – 7 times Oxycodone 10mg #180 – 1x Oxycodone 15mg #170, 250 – 2 times Endocet 10/325mg #180 4 times	Paul, G Truckee, CA Family practice MD	2171212 on 7/30/16 4213300 on 7/25/16 2170798 on 5/21/16 Distance: Patient address in Reno, gets controlled substances from MD in Truckee. NO medical justification for amphetamine with pain meds but no calls to prescriber. 40 miles
OB Incline village NV	Hydroc/apap 5/325mg #30	Astengo, S ER physician, closest in S. Lake Tahoe, CA	2166938 on 3/3/15

1	NA Miami, FL	Hydromorphone 2mg #75 Tramadol 50mg # 50	Ringnes, A Truckee, CA	2170296 4212664 Both on 3/15/16
2				No notes
3	MH Sequim, WA	Testosterone 50mg packets #450 Androgel 450gm	Reichert, J Joseph Drew Both from- Reno, NV	4212670 on 3/17/16 4211420 on 12/9/15 RPH should have questioned address from WA to NV to CA to fill.
4				
5				
6	LM Sun Valley, NV	Methadone 10mg #210 (7 per day)- filled 10 times	Hamblin, B Point Reyes Station, CA	2167507 2167768 Date range: 6/25/14 through 6/5/15. I did not check CURES to see gaps.
7				
8				
9				231 miles from Sun Valley to Point Reyes Station.
10				38 miles from Sun Valley to Truckee but must pass through Reno, NV
11				
12				
13	KB Lumberton, MS DOB: 7/27/85	Adderall XR 30mg #30	William Alan Davis (when I googled name only found one in Bethesda, MD)	2168035 on 7/9/15
14				
15	AP Dublin, CA DOB 7/5/95	Oxycodone 5mg #90 Notable directions: 1 to 3 every 4 hours.	Buchanan, D Reno, NV	2171025 on 6/26/16
16				This was a 20 y.o. who is from Dublin getting high dose oxycodone.
17				
18				186 miles from Dublin to Truckee.
19				218 miles from Dublin to reno, NV
20				
21	JJ Kellogg, ID DOB: 9/18/84	Buprenorphine 8mg #90 x2 Clonazepam 1mg #90	Carraher md Post Falls ID	Filled 10/14/15 and 9/10/15.
22			DEA does not begin with an 'X'	Distance for patient to travel to MD: 45 miles.
23				Because of patient age, address and possible no access to CURES, RPH should have called.
24				
25				
26	EP Newton Center, MA DOB 5/12/92	Hydroc/apap 5/325mg #30	Jowers, C ER MD at Portola and Truckee, CA	Rx 2168250 on 8/2/15
27				Note: probably ER RX but pharmacy did
28				

			not inquire as to medical necessity for a person out of state
JH Fort Myers, FL DOB 9/20/85	Oxycodone 5mg #100	Coll, Daniel Records show he is a PA at Truckee hospital and in Reno, NV	2168348 on 8/14/15 Note: this was a large quantity and out of state patient with no verification by RPH on profile.
JC Reno, NV DOB 11/16/70	Hydroc/apap 10/325mg #30, 20, 40, etc. at least 10 times with Alprazolam 1mg #30 – 7 times (+other strengths) And Adderall XR 30mg #30 – 13 times	Barta, G Truckee, CA J. Dodd Truckee, CA	Patient travels from Reno, NV to Truckee to see MDs And to this pharmacy. Distance/time: 30 minutes
EE Katy, TX DOB 9/11/73	Hydro/apap 7.5/325mg #20	Quammen, A Truckee, CA	Appeared given with drug for cold sore outbreak?
EG Colorado Springs, CO DOB 3/22/88	Hydro/apap 10/325mg #60 on 3/7/16	Ringer, A Cincinnati, OH	RX2170221 This RX should have been sent to the patients address in Colorado if information correct.

TWELFTH CAUSE FOR DISCIPLINE

(Duty to Maintain Patient Profiles)

48. Respondent Shergill-Hirsh is subject to disciplinary action pursuant to Code section 4301, subdivision (o), for unprofessional conduct, in that Respondent, as pharmacist-in-charge for Respondent Safeway, violated Title 16, CCR, section 1707.1, subdivision (a), as follows: On and between April 1, 2014 and September 21, 2016, Respondent failed to obtain physical addresses for patients who were dispensed Schedule II through IV controlled substances and instead obtained post office boxes for the following patients:

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Patient initials	Controlled substances dispensed:	MD	Date of RX	RX number/ Comments:
JL Las Vegas, NV Only a PO Box on patient profile.	Methadone 10mg #90	Fedor MD Santa Barbara, CA	7/19/16	2171169 Distance: 359miles from LV to Santa Barbara- 5.25 hours. 493 miles from SB to Truckee. NOTE: DL says he is from Florida.
SS PO Box Truckee	Diazepam 10mg #65 Morphine 15mg ER #90 Endocet 10/325mg #100	Kim, M	Diazepam 4/14/14 - 7/19/16 MS ER: 1/28/15 - 7/7/16 Endocet: 4/28/14 – 7/7/16	No notes on patient profile
CO PO Box Loyalton, CA	Alprazolam 1mg #90 Carisoprodol 350mg #30 Hydrocode/apap 10/325mg #180 This is considered the “trinity” or an opioid cocktail by Safeway	Lombard	Alprazolam:4/25/14 -8/28/16 Carisoprodol: 4/9/14 – 9/16/16 Hydroc/apap: 4/25/14 – 2/25/16	Not only was there no address but the combination is considered a red flag. I counted at least 10 RPH who filled for this patient and none addressed these issues.
KS PO Box Soda Springs, CA	Methyphenidate ER 54mg #30 Methylphenidate 10mg #30 Clonazepam x1 Bupropion XL x1		4/7/14 – 9/15/16	DOB: 3/30/66: For the 2+ years this was the patients’ profile – no notes, no address, no DX
DW PO Box Truckee, CA	Hydroc/apap 10/325mg #120 Carisoprodol 350mg #90 Alprazolam 0.25mg #30 Oxycontin 40mg #90	Lombard	4/10/14 – 8/31/16	This combination is considered a red flag and referred to as the ‘holy trinity’ Not only did the pharmacy not know where the person lived but did not know medical necessity.

1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **(Furnishing Controlled Substances to Oneself)**

3 51. Respondent Carroll is subject to disciplinary action pursuant to Code section 4301,
4 subdivisions (o) and (j), for unprofessional conduct, in that Respondent violated Health and
5 Safety Code section 11170, as follows: On or about August 10, 2016, Respondent, while
6 working at Safeway Pharmacy #1266, filled, verified and dispensed prescription number 2171333
7 for 70 tablets of hydrocodone/APAP 10/325 mg for himself.

8 **SIXTEENTH CAUSE FOR DISCIPLINE**

9 **(Erroneous Report to CURES)**

10 52. Respondent Carroll is subject to disciplinary action pursuant to Code section 4301,
11 subdivisions (o) and (j), for unprofessional conduct, in that Respondent, as pharmacist-in-charge
12 of Respondent Safeway, violated Health and Safety Code section 11165, subdivision (d)(2), as
13 follows: On or about March 7, 2016, Respondent dispensed prescription number 2170221 for
14 patient EG under the name of Dr. Ringer located in Cincinnati, Ohio, instead of the prescriber
15 identified on the prescription, A. Ringnes, M. D. located in Truckee, California.

16 **SEVENTEENTH CAUSE FOR DISCIPLINE**

17 **(Failure to Identify Legitimacy of Prescriptions)**

18 53. Respondent Carroll is subject to disciplinary action pursuant to Code section 4301,
19 subdivisions (o) and (j), for unprofessional conduct, in that Respondent, as pharmacist-in-charge
20 for Respondent Safety, violated Health and Safety Code section 11153, subdivision (a), and Title
21 16, California Code of Regulations, section 1761, as follows: On or about September 21, 2016,
22 pharmacists, while working at Safeway Pharmacy #1266, dispensed controlled substance
23 prescriptions without first verifying a legitimate medical purpose for the drugs. In addition, even
24 when the prescriptions contained uncertainties or irregularities, the pharmacists continued to
25 dispense high dose, higher quantities of controlled substances. Specifically, between April 1,
26 2014 and September 21, 2016, pharmacists filled controlled substances without contacting the
27 prescriber in order to identify the medical necessity prior to dispensing, dispensed drugs to
28 patients who lived long distances from both the pharmacy and the prescribers, and dispensed to

patients who lived out of state and obtained prescriptions from Southern California prescribers and then had them filled at the pharmacy:

a. The following prescriptions were issued to patients with no known medical necessity for the drugs, the patients were issued prescriptions of combinations of drugs known as “trinity” or “holy trinity”, and there was no documentation of contact with the prescribers for the prescriptions:

Patient initials	Controlled substance:	Prescriber:	Date Issued:
AP	Hydrocode/apap 10/325mg #60 Oxycodone 30mg #180 Clonazepam 2mg #30 Hydrocod/apap 10/325mg #180 Carisoprodol 350mg #90	Rice	4/9/14 4/20/14 4/20/14 4/21/14 4/25/14 and
AP	Hydrocod/apap 10/325mg #180 Oxycodone 30mg #90 to take 6/day Oxycodone 30mg #90-to take every 4hrs Alprazolam 0.5mg #5, 15 once daily Oxycodone 30mg #90-one q4h	Bouchier	8/2/16 7/22/16 8/3/16 8/6/16 and 8/16/16 9/1/16
CP	Morphine ER 100mg #120 Oxycodone 30mg #180 Carisoprodol 350mg #120	Paul	4/8/14 4/8/14 4/8/14
CP	Morphine ER 100mg #120 Oxycodone 30mg #180 q4h Carisoprodol 350mg #120 Diazepam 10mg #30 1 hs for anxiety	Paul	4/14/16 4/14/16 4/14/16 4/16/16
DVA	Methadone 10mg #450 5 tabs tid Morphine 60mg ER #90-q8h	Barta	4/19/14 4/19/14 4/19/14 5/1/14

Patient initials	Controlled substance:	Prescriber:	Date Issued:
	Morphine soln 100mg/5mg 180ml - 1ml q4h Lorazepam 1mg #30 Later, patient had alprazolam and diazepam added to drug list. But the		
DVA	Morphine 100mg/5mg solution 90ml Methadone 10mg #180 Morphine 100mg ER #60 Lorazepam 1mg #30 Patient had cyclobenzaprine, baclofen on current profile	Barta	8/31/16 8/31/16 8/31/16 8/18/16 (Exhibit 14, page 39,40)
DP	Morphine 60mg ER #90 Oxycodone 15mg #180 q4h Carisoprodol 350mg #90	Paul	4/15/14 4/15/14 4/15/14
DP	Morphine 60mg ER #90 Oxycodone 15mg #200 q4h * Carisoprodol 350mg #90 *Note increased oxy IR 15mg quantity	Paul	4/2/16 4/5/16 4/2/16
PL	Tramadol 50mg #240 -2 q 6h Hydroc/apap 10/325mg #130	Scully	4/23/14 4/26/14
PL	Oxycodone 15mg #200 Tramadol 50mg #150 2 q6h	Pong	2/20/16 started-last date on this record is 7/15/16; still for post- op pain Tramadol: 7/15/16
IM	Oxycodone 20mg #120 Morphine 60mg ER #30 Morphine 15mg ER #30 Morphine 30mg ER #30	Tinkelenberg	5/5/15 5/21/15 6/24/15 6/24/15

Patient initials	Controlled substance:	Prescriber:	Date Issued:
IM	Oxycodone 30mg #90 Morphine 30mg ER #30 then #7 Diazepam 10mg #30 then #6		Oxy on 1/7/16, 2/1/16, 2/13/16 (#18) & 3/16/16 MS: 12/2/15, 2/10/16 Diazepam: 12/2/15, 2/10/16
SM	Hydroc/apap 7.5mg/325mg #28 Hydroc/apap 7.5mg/325mg #20	Joseph-Messner	6/4/14 6/9/14
SM	Clonazepam 0.5mg #30 Hydroc/apap 10/325mg #80	Barta Ringers	8/21/16 8/31/16
DC	Hydroc/apap 10/325mg by MC1	Dodd	8/10/16 – PIC filled own RX
DB	Hydroc/apap 10/325mg #15 Diazepam 10mg #10	Liu	4/2/14, 6/19/14 6/19/14
DB	Hydroc/apap 7.5mg/325mg #15 Diazepam 10mg #15	Colpitts	9/20/16 9/20/16
ZB	Carisoprodol 350mg #120 Morphine 100mg ER #150 Oxycodone 30mg #360 Morphine 30mg ER #30	Costello	11/26/14 6/8/15 6/8/15 6/8/15
ZB	Carisoprodol 350mg #120 Morphine 100mg ER #180 Oxycodone 30mg #360 Morphine 30mg ER #30	Costello – Original complaint	8/2/16 and 8/29/16 8/10/16 8/27/16 8/23/16

b. The following prescriptions were issued to patients who lived out of the area and the patients obtained controlled substances from out of the area prescribers:

Patient initials	Controlled substance:	Prescriber: Address:	Date:	<u>RX number:</u> <u>Comments:</u>
DC Lives in Elk Grove	Hydroc/apap 10mg #70	Dodd Truckee	8/10/16	2171333 Filled for self

Patient initials	Controlled substance:	Prescriber: Address:	Date:	<u>RX number:</u> <u>Comments:</u>
SW Lives in Chinese Camp, CA	Oxycodone 30mg #240 28 times in 25 months Other: Alprazolam 0.5mg #30 , tramadol, prometh/codeine, Zolpidem	Decommer Auburn, CA	4/26/14 through 6/1/16	2169094 (Exhibit 22, page 10) 4213049 Xanax (page 11) Distance: 130miles from CC to Auburn. 68 miles from Auburn to Truckee
ZB	Carisoprodol 350mg #120-20 times Morphine 100mg ER #180 -17 times Oxycodone 30mg #360- 17 times Morphine 30mg ER #30 – 14 times <i>Refer to Exhibit 21</i>	Costello Pomona, CA	7/5/14 thru 9/8/16	2169138 electronic 2169137 electronic 2171216 2171215 2171214 Electronic for Morphine RXs 4213048 – Soma 2169139 – oxy 30 MS 30mg directions was to crush in cream 11 times then switched to oral
AP Truckee,CA	Hydrocod/apap 10/325mg #180-31 times Oxycodone 30mg #90 to take 6/day Oxycodone 30mg #90-to take every 4hrs – 48 times Alprazolam 0.5mg #5, 15 once daily - twice Clonazepam 2mg #30 – 3 times <i>Refer to Exhibit 12</i>	Bouchier Grass Valley, CA	4/9/14 through 9/2/16	2171277 - oxycodone 2171274- hydro/apap Diagnosis on one RX: chronic pain 56 miles, over one hour drive from Grass Valley to Truckee MD is family practice
TM Graeagle, CA	Endocet 10/325mg #60 or #80- 3 times Morphine ER 15mg #50 1x Oxycodone 5mg	Dodd Truckee, CA	5/21/16 through 9/15/16	2171338 2171144 Distance: 57 minutes

Patient initials	Controlled substance:	Prescriber: Address:	Date:	<u>RX number:</u> <u>Comments:</u>
	#60 1x Oxycod/apap 5/325mg #60, 80 or 50 – 6 times			(45.5miles) from Graeagle, CA to Truckee
VR Sioux Falls, SD	Hydroco/apap 5/325mg #30	Monroe Santa Ana, CA	8/1/16	2171262 Rx was verified but no comment why from SD to Santa Ana to Truckee. Distance from MD to Truckee: 8.5 hours
DW Loyalton, CA PO BOX, no address	Methadone 10mg #120 9 times Hydro/apap #180 -25 times Alprazolam .25mg #30 – 19 times Diazepam 10mg #60 Carisoprodol 350mg #60 Butalbital/apap #30 Methadone 5mg #60 Phentermine All the above were prescribed together and taken at some point at the same time per profile.	Kim, M Portola, CA	4/3/14 through 9/19/16	2171352 2171353 2171354 2170333 All electronic Distance: 27 miles from Loyalton to Portola. 1 pharmacy in Loyalton. 1 in Portola. 2 in Quincy 46 minutes or 1.25hrs depending on route from Loyalton to Truckee.
JC San Marcos, CA	Oxy/apap 10/325mg #240	Kaime MD Truckee CA center	4/10/14	2171355 When asked RPH why there was no contact with prescriber; the answer was one of assumption because oxy/apap came from cancer center.
JL Las Vegas, NV Only a PO Box on patient	Methadone 10mg #90	Fedor MD Santa Barbara, CA	7/19/16	2171169 Distance: 359miles from

Patient initials	Controlled substance:	Prescriber: Address:	Date:	<u>RX number:</u> <u>Comments:</u>
profile.				LV to Santa Barbara- 5.25 hours. 493 miles from SB to Truckee. NOTE: DL says patient is from Florida!
MA Grass Valley, CA	Oxy/apap 10/325mg #150, 60, 100 Hydroco/apap 10/325 #60,90,100, Carisoprodol 350mg #60 Diazepam 10mg #30, 60 Starting on 12/3/15, pt advised to wean on oxy/apap; instead, quantities increased and there are no notes to address.	Picetti Sacramento, CA Spine specialist With Yee, M MD.	3/20/15 through 4/22/16	2170372-oxy/apap on 3/24/16 Distance: I observed it could be reasonable to see a spine specialist in Sacramento and patient lives in GV. However, the travel from Sacramento via Truckee was questionable.
PL Truckee, CA	Oxycodone 15mg #200	Hindle PA SFO, CA Spine institute	7/11/16	2171151 Issue: The security feature: RX is supposed to change with heat and did not. I had RPH Speicher try. It did not change.
AS Novato, CA	Lorazepam 1mg #30 or #40 -16 times in 13 months	Kreiss Fremont, CA	Last on this record: 9/9/16 Range: 7/10/15 through 9/19/16	4213540 Distance: 59 miles from Novato to Fremont. 177 miles from Novato to Truckee
KD Grass Valley, CA	Endocet 10/325mg #42 Zolpidem 10mg	Anton, Mark Newport Beach, CA	9/23/15	2168700 4211697 4211698

Patient initials	Controlled substance:	Prescriber: Address:	Date:	<u>RX number:</u> <u>Comments:</u>
	#20 Alprazolam 0.5mg #30			Distance: 531 miles from Newport Beach to Truckee. I googled MD: Aesthetics MD. No notes to explain why patient received meds in Truckee and not GV.

c. The following prescriptions were issued to patients who lived out of state and/or the prescriber was from out of state:

Patient initials	Controlled Substance:	Prescriber:	Date:
KS Sammanish, WA	Tramadol 50mg	Auerbach, P ER MD at Stanford hospital	8/23/15 Distance: 219 miles from Stanford to Truckee.
NP Charlotte, NC	Hydroc/apap 5/325mg #50	Cahill, K Santa Barbara, CA	7/15/16 RX2171150 Distance: 493 miles from Santa Barbara to Truckee.
PL Surprise, AZ	Oxycodone 5mg #60 Lorazepam 0.5mg #6	Martin, P S. Lake Tahoe Scholnick, J Truckee	7/14/16 RX 2171147 on secure form. RX 4213329 Distance: 44 miles or 1.25 hrs from Tahoe to Truckee
DM Florence AZ	Hydroc/apap 7.5mg/325mg #60 Tramadol 50mg #60	Osgood Truckee and Jackson, CA	2168510 on 9/2/15, 6/4/15, and 8/8/14 Note: pharmacy should have called to see why person out of state was seeing this MD in Truckee
PB DOB: 12/15/54 Reno, NV	Adderall 10mg #30 -3 times Alprazolam 1mg #75 – 7 times	Paul, G Truckee, CA Family practice MD	2171212 on 7/30/16 4213300 on 7/25/16 2170798 on 5/21/16

	Oxycodone 10mg #180 – 1x Oxycodone 15mg #170, 250 – 2 times Endocet 10/325mg #180 4 times		Distance: Patient address in Reno, gets controlled substances from MD in Truckee. NO medical justification for amphetamine with pain meds but no calls to prescriber. 40 miles
OB Incline village NV	Hydroc/apap 5/325mg #30	Astengo, S ER physician, closest in S. Lake Tahoe, CA	2166938 on 3/3/15
NA Miami, FL	Hydromorphone 2mg #75 Tramadol 50mg # 50	Ringnes, A Truckee, CA	2170296 4212664 Both on 3/15/16 No notes
MH Sequim, WA	Testosterone 50mg packets #450 Androgel 450gm	Reichert, J Joseph Drew Both from- Reno, NV	4212670 on 3/17/16 4211420 on 12/9/15 RPH should have questioned address from WA to NV to CA to fill.
LM Sun Valley, NV	Methadone 10mg #210 (7 per day)- filled 10 times	Hamblin, B Point Reyes Station, CA	2167507 2167768 Date range: 6/25/14 through 6/5/15. I did not check CURES to see gaps. 231 miles from Sun Valley to Point Reyes Station. 38 miles from Sun Valley to Truckee but must pass through Reno, NV
KB Lumberton, MS DOB: 7/27/85	Adderall XR 30mg #30	William Alan Davis (when I googled name only found one in Bethesda, MD)	2168035 on 7/9/15
AP Dublin, CA DOB 7/5/95	Oxycodone 5mg #90 Notable directions: 1 to 3 every 4 hours.	Buchanan, D Reno, NV	2171025 on 6/26/16 This was a 20 y.o. who is from Dublin getting high dose oxycodone. 186 miles from Dublin to Truckee. 218 miles from Dublin to reno, NV

JJ Kellogg, ID DOB: 9/18/84	Buprenorphine 8mg #90 x2 Clonazepam 1mg #90	Carraher md Post Falls ID DEA does not begin with an 'X'	Filled 10/14/15 and 9/10/15. Distance for patient to travel to MD: 45 miles. Because of patient age, address and possible no access to CURES, RPH should have called.
EP Newton Center, MA DOB 5/12/92	Hydroc/apap 5/325mg #30	Jowers, C ER MD at Portola and Truckee, CA	Rx 2168250 on 8/2/15 Note: probably ER RX but pharmacy did not inquire as to medical necessity for a person out of state
JH Fort Myers, FL DOB 9/20/85	Oxycodone 5mg #100	Coll, Daniel Records show he is a PA at Truckee hospital and in Reno, NV	2168348 on 8/14/15 Note: this was a large quantity and out of state patient with no verification by RPH on profile.
JC Reno, NV DOB 11/16/70	Hydroc/apap 10/325mg #30, 20, 40, etc. at least 10 times with Alprazolam 1mg #30 – 7 times (+other strengths) And Adderall XR 30mg #30 – 13 times	Barta, G Truckee, CA J. Dodd Truckee, CA	Patient travels from Reno, NV to Truckee to see MDs And to this pharmacy. Distance/time: 30 minutes
EE Katy, TX DOB 9/11/73	Hydro/apap 7.5/325mg #20	Quammen, A Truckee, CA	Appeared given with drug for cold sore outbreak?
EG Colorado Springs, CO DOB 3/22/88	Hydro/apap 10/325mg #60 on 3/7/16	Ringer, A Cincinnati, OH	RX2170221 This RX should have been sent to the patients address in Colorado if information correct.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Duty to Maintain Patient Profiles)

54. Respondent Carroll is subject to disciplinary action pursuant to Code section 4301, subdivision (o), for unprofessional conduct, in that Respondent, as pharmacist-in-charge for

Respondent Safeway, violated Title 16, CCR, section 1707.1, subdivision (a), as follows: On and between April 1, 2014 and September 21, 2016, Respondent Carroll failed to obtain physical addresses for patients who were dispensed Schedule II through IV controlled substances and instead obtained post office boxes for the following patients:

Patient initials	Controlled substances dispensed:	MD	Date of RX	RX number/ Comments:
JL Las Vegas, NV Only a PO Box on patient profile.	Methadone 10mg #90	Fedor MD Santa Barbara, CA	7/19/16	2171169 Distance: 359miles from LV to Santa Barbara- 5.25 hours. 493 miles from SB to Truckee. NOTE: DL says he is from Florida.
SS PO Box Truckee	Diazepam 10mg #65 Morphine 15mg ER #90 Endocet 10/325mg #100	Kim, M	Diazepam 4/14/14 - 7/19/16 MS ER: 1/28/15 - 7/7/16 Endocet: 4/28/14 – 7/7/16	No notes on patient profile
CO PO Box Loyalton, CA	Alprazolam 1mg #90 Carisoprodol 350mg #30 Hydrocode/apap 10/325mg #180 This is considered the “trinity” or an opioid cocktail by Safeway	Lombard	Alprazolam:4/25/14 -8/28/16 Carisoprodol: 4/9/14 – 9/16/16 Hydroc/apap: 4/25/14 – 2/25/16	Not only was there no address but the combination is considered a red flag. I counted at least 10 RPH who filled for this patient and none addressed these issues.
KS PO Box Soda Springs, CA	Methyphenidate ER 54mg #30 Methylphenidate 10mg #30 Clonazepam x1 Bupropion XL x1		4/7/14 – 9/15/16	DOB: 3/30/66: For the 2+ years this was the patients’ profile – no notes, no address, no DX
DW PO Box Truckee, CA	Hydroc/apap 10/325mg #120 Carisoprodol 350mg #90 Alprazolam	Lombard	4/10/14 – 8/31/16	This combination is considered a red flag and referred to as the ‘holy

Patient initials	Controlled substances dispensed:	MD	Date of RX	RX number/ Comments:
	0.25mg #30 Oxycontin 40mg #90			trinity' Not only did the pharmacy not know where the person lived but did not know medical necessity.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Permit Number PHY 52234, issued to Safeway Inc., doing business as Safeway Pharmacy #1266;
2. Revoking or suspending Pharmacy Permit Number PHY 37147, issued to Safeway Inc., doing business as Safeway Pharmacy #1266;
3. Revoking or suspending Pharmacist License Number RPH 52264, issued to Antara Shergill-Hirsh;
4. Revoking or suspending Pharmacist License Number RPH 39533, issued to David Scott Carroll;
5. Ordering Safeway, Inc., doing business as Safeway Pharmacy #1266, Antara Shergill-Hirsh and David Scott Carroll to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
5. Taking such other and further action as deemed necessary and proper.

DATED: January 29, 2020



ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California, *Complainant*