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

11 In the Matter of the Accusation Against:

Case No. 4928

12 **CARDINAL HEALTH**  
13 **Cardinal Health**  
14 **2045 Interstate Drive**  
**Lakeland, FL 33805**

**ACCUSATION**

15 **Out of State Distributor License No. OSD**  
16 **4820**

17 **and**

18 **Joyce R. Butler**  
19 **1401 Holy Cow Road**  
**Polk City, FL 33868**

20 **Designated Representative-in-Charge**  
21 **License No. EXC 20146**

22 Respondents.

23  
24 Complainant alleges:

25 **PARTIES**

26 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
27 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
28



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

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

5 "...

6 (n) The revocation, suspension, or other discipline by another state of a license to practice  
7 pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter.  
8 .."

### 9 **COST RECOVERY**

10 9. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
11 administrative law judge to direct a licentiate found to have committed a violation or violations of  
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
13 enforcement of the case.

### 14 **RESPONDENT CARDINAL HEALTH**

#### 15 **FIRST CAUSE FOR DISCIPLINE**

#### 16 **(Unprofessional Conduct—Discipline by Another State)**

17 10. Respondent Cardinal Health is subject to disciplinary action under section 4301(n) of  
18 the Code in that Cardinal Health's Drug Enforcement Administration (DEA) registration for its  
19 Lakeland Distribution Center, located in Florida, has been disciplined by the United States  
20 Department of Justice, Drug Enforcement Administration. The circumstances are as follows:

21 11. On or about May 14, 2012, Respondent Cardinal entered into an Administrative  
22 Memorandum of Agreement (MOA) with the United States Department of Justice, Drug  
23 Enforcement Administration based upon the following facts: (1) Cardinal is registered with DEA  
24 at 28 facilities as distributors of Schedule II-V controlled substances, under provisions of the  
25 Comprehensive Drug Abuse Prevention Act of 1970, 21 U.S.C. § 801 *et seq.*; (2) in September  
26 2008, Cardinal entered into a Settlement and Release Agreement and Administrative  
27 Memorandum of Agreement ("2008 MOA"); (3) Cardinal's Lakeland distribution facility  
28 ("Cardinal Lakeland") was registered with the DEA as a distributor of Schedule II-V controlled

1 substances, with an expiration date of May 31, 2012; and (4) on February 2, 2012, the DEA issued  
2 an order to show cause and immediate suspension of registration to Cardinal Lakeland.

3 a. The order to show cause, referenced above, alleged that: (1) Despite the 2008  
4 MOA, Cardinal Lakeland failed to maintain effective controls against diversion of particular  
5 controlled substances into other than legitimate medical, scientific, and industrial channels as  
6 evidenced by sales to certain customers of Cardinal; (2) Cardinal Lakeland failed to report  
7 suspicious orders of controlled substances as required by 21 C.F.R. § 1304.74(b); and (3) Cardinal  
8 Lakeland failed to conduct meaningful due diligence of its retail pharmacies, including its retail  
9 chain pharmacy customers to ensure that controlled substances were not diverted into other than  
10 legitimate channels.

11 b. In the MOA, Cardinal admitted that its due diligence efforts for some pharmacy  
12 customers and its compliance with the 2008 MOA, in certain respects, were inadequate.

13 c. Under the terms of the MOA, the agreement remains in full force and effect  
14 until May 14, 2017 (five years from its effective date, May 14, 2012). Under the terms of the  
15 MOA, Cardinal agreed to: (1) implement various control procedures to ensure that it did not  
16 commit further conduct as described in subparagraph (a) above; (2) continued suspension of its  
17 authority to handle controlled substances at Cardinal Lakeland until May 15, 2014; and (3) fully  
18 cooperate with the DEA. Under the terms of the MOA, the DEA agreed to lift the suspension of  
19 Cardinal Lakeland's DEA registration on May 14, 2014, so long as Cardinal complied with the  
20 terms of the agreement.

21 **RESPONDENT BUTLER**

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Failure to Ensure Compliance With State and Federal Laws Governing Wholesalers)**

24 12. Respondent Butler is subject to disciplinary action under section 4161(j) of the Code  
25 in that as the Designated Representative-In-Charge of Respondent Cardinal, Butler failed to  
26 ensure Cardinal's compliance with state and federal laws governing wholesalers. The  
27 circumstances are described with more particularity in paragraph 11, and all of its subparts, and as  
28 follows:

1 13. Since April 21, 2010, Respondent Butler has served as the Designated  
2 Representative-In-Charge for Respondent Cardinal.

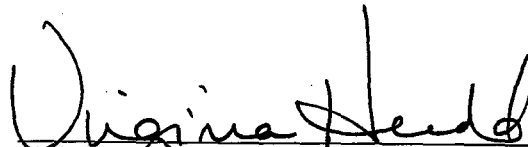
3 14. Respondent Cardinal was disciplined by the DEA, through the MOA and as described  
4 in more particularity in paragraph 11 and all of its subparts, for violating state and federal laws  
5 governing wholesalers while Respondent Butler served as Cardinal's Representative-In-Charge.

6 **PRAYER**

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

- 9 1. Revoking or suspending Out of State Distributor License Number OSD 4820, issued  
10 to Cardinal Health;
- 11 2. Revoking or suspending Designated Representative-in-Charge License Number EXC  
12 20146, issued to Joyce R. Butler;
- 13 3. Ordering Cardinal Health and Joyce R. Butler to pay the Board of Pharmacy the  
14 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
15 Professions Code section 125.3; and
- 16 4. Taking such other and further action as deemed necessary and proper.
- 17  
18

19 DATED: 11/4/13



VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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