

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

In the Matter of the Accusation Against:

Case No. 4928

**CARDINAL HEALTH**

2045 Interstate Drive  
Lakeland, FL 33805

Out of State Distributor License No. OSD 4820

and

**JOYCE R. BUTLER**

1401 Holy Cow Road  
Polk City, FL 33868

Designated Representative-in-Charge  
License No. EXC 20146

Respondents.

**DECISION AND ORDER**

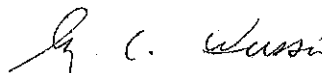
The attached Stipulated Settlement and Disciplinary Order for Public Reprimand is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on May 5, 2014.

It is so ORDERED on April 30, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 PHILLIP L. ARTHUR  
Deputy Attorney General  
4 State Bar No. 238339  
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*Attorneys for Complainant*

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 **2045 Interstate Drive**  
14 **Lakeland, FL 33805**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER FOR PUBLIC**  
**REPROVAL**

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

**[Bus. & Prof. Code § 495]**

16 **and**

17 **JOYCE R. BUTLER**  
18 **1401 Holy Cow Road**  
**Polk City, FL 33868**

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

21 Respondents.

22  
23 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
24 entitled proceedings that the following matters are true:

25 **PARTIES**

26 1. VIRGINIA HEROLD (Complainant) is the Executive Officer of the Board of  
27 Pharmacy. She brought this action solely in her official capacity and is represented in this matter  
28

1 by Kamala D. Harris, Attorney General of the State of California, by Phillip L. Arthur, Deputy  
2 Attorney General.

3 2. Respondent Cardinal Health (Respondent Cardinal) and Respondent Joyce R. Butler  
4 (Respondent Butler) are represented in this proceeding by attorney Susan Trujillo, whose address  
5 is: Quarles & Brady, LLP, Two North Central Avenue, Phoenix, AZ 85004.

6 3. On or about April 21, 2010, the Board of Pharmacy issued Out of State Distributor  
7 License No. OSD 4820 to Respondent Cardinal. The Out of State Distributor License was in full  
8 force and effect at all times relevant to the charges brought in Accusation No. 4928 and will  
9 expire on April 1, 2014, unless renewed.

10 4. On or about May 13, 2009, the Board of Pharmacy issued Designated Representative-  
11 in-Charge License No. EXC 20146 to Respondent Butler as a designated representative in  
12 California. The EXC License was in full force and effect at all times relevant to the charges  
13 brought in Accusation No. 4928 and will expire on May 1, 2014, unless renewed.

#### 14 JURISDICTION

15 5. Accusation No. 4928 was filed before the Board of Pharmacy (Board), Department of  
16 Consumer Affairs and is currently pending against Respondents. The Accusation and all other  
17 statutorily required documents were properly served on Respondents on November 25, 2013.  
18 Respondents timely filed their Notice of Defense contesting the Accusation. A copy of  
19 Accusation No. 4928 is attached as exhibit A and incorporated herein by reference.

#### 20 ADVISEMENT AND WAIVERS

21 6. Respondents have carefully read, fully discussed with counsel, and understand the  
22 charges and allegations in Accusation No. 4928. Respondents have also carefully read, fully  
23 discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary  
24 Order for Public Reproval.

25 7. Respondents are fully aware of their legal rights in this matter, including the right to a  
26 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
27 their own expense; the right to confront and cross-examine the witnesses against them; the right  
28 to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to

1 compel the attendance of witnesses and the production of documents; the right to reconsideration  
2 and court review of an adverse decision; and all other rights accorded by the California  
3 Administrative Procedure Act and other applicable laws.

4 8. Respondents voluntarily, knowingly, and intelligently waive and give up each and  
5 every right set forth above.

#### 6 CULPABILITY

7 9. Respondents understand and agree that the charges and allegations in Accusation No.  
8 4928, if proven at a hearing, constitute cause for imposing discipline upon Respondent Cardinal  
9 Health's Out of State Distributor License No. OSD 4820, and Respondent Joyce R. Butler's  
10 Designated Representative-in-Charge License No. EXC 20146.

11 10. For the purpose of resolving the Accusation without the expense and uncertainty of  
12 further proceedings, Respondents agree that, at a hearing, Complainant could establish a factual  
13 basis for the charges in the Accusation, and that Respondents hereby give up their right to contest  
14 those charges.

15 11. Respondents agree that Respondent Cardinal Health's Out of State Distributor  
16 License No. OSD 4820, and Respondent Joyce R. Butler's Designated Representative-in-Charge  
17 License No. EXC 20146, are subject to discipline and agree to the issuance of a letter of public  
18 reproof.

#### 19 CONTINGENCY

20 12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents  
21 understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may  
22 communicate directly with the Board regarding this stipulation and settlement, without notice to  
23 or participation by Respondents or their counsel. By signing the stipulation, Respondents  
24 understand and agree that they may not withdraw their agreement or seek to rescind the  
25 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this  
26 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public  
27 Reproval shall be of no force or effect, except for this paragraph, it shall be inadmissible in any  
28

1 legal action between the parties, and the Board shall not be disqualified from further action by  
2 having considered this matter.

3 13. The parties understand and agree that Portable Document Format (PDF), electronic,  
4 and facsimile copies of this Stipulated Settlement and Disciplinary Order for Public Reproval,  
5 including Portable Document Format (PDF), electronic, and facsimile signatures thereto, shall  
6 have the same force and effect as the originals.

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

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

17 **DISCIPLINARY ORDER**

18 IT IS HEREBY ORDERED that Out of State Distributor License No. OSD 4820 issued to  
19 Respondent Cardinal Health (Respondent Cardinal), and Designated Representative-in-Charge  
20 License No. EXC 20146 issued to Respondent Joyce R. Butler (Respondent Butler), shall, by way  
21 of letter from the Board's Executive Officer, be publicly reproved. The letter shall be in the same  
22 form as the letter attached as Exhibit B to this stipulation.

23 IT IS FURTHER ORDERED that within thirty (30) days from the effective date of this  
24 decision, Respondent Cardinal shall pay \$1,505.00 to the Board for its costs associated with the  
25 investigation and enforcement of this matter. If Respondent Cardinal fails to pay the Board costs  
26 as ordered, Respondent Cardinal shall not be allowed to renew its Out of State Distributor  
27 License until Respondent Cardinal pays costs in full.

28 ///

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public  
3 Reapproval and have fully discussed it with my attorney, Susan Trujillo. I understand the  
4 stipulation and the effect it will have on Respondent Cardinal's Out of State Distributor License  
5 and my Designated Representative-in-Charge License. I enter into this Stipulated Settlement and  
6 Disciplinary Order for Public Reapproval voluntarily, knowingly, and intelligently, and agree to be  
7 bound by the Decision and Order of the Board of Pharmacy. I have the authority to bind Cardinal  
8 Health to all the terms of this agreement.

9  
10 DATED: 3/19/2014

Joyce R. Butler  
CARDINAL HEALTH  
JOYCE R. BUTLER, DESIGNATED  
REPRESENTATIVE-IN-CHARGE  
Respondent

11  
12  
13  
14 DATED: 3/19/2014

Joyce R. Butler  
JOYCE R. BUTLER  
DESIGNATED REPRESENTATIVE-IN-CHARGE  
Respondent

15  
16  
17 I have read and fully discussed with Respondents Cardinal Health and Joyce R. Butler the  
18 terms and conditions and other matters contained in the above Stipulated Settlement and  
19 Disciplinary Order for Public Reapproval. I approve its form and content.

20  
21 DATED: 3/20/2014

Susan Trujillo  
SUSAN TRUJILLO  
Attorney for Respondent

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Dated: 3/20/14

KAMALA D. HARRIS  
Attorney General of California  
KENT D. HARRIS  
Supervising Deputy Attorney General

SA2013112700  
11232900.doc

**Exhibit A**

**Accusation No. 4928**



1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 PHILLIP L. ARTHUR  
Deputy Attorney General  
4 State Bar No. 238339  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 322-0032  
Facsimile: (916) 327-8643  
7 E-mail: Phillip.Arthur@doj.ca.gov  
Attorneys for Complainant

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  
2045 Interstate Drive  
14 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

26 **PARTIES**

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

2. On or about April 21, 2010, the Board of Pharmacy issued Out of State Distributor License Number OSD 4820 to Cardinal Health (Respondent Cardinal Health). The Out of State Distributor License was in full force and effect at all times relevant to the charges brought herein and will expire on April 1, 2014, unless renewed.

3. On or about May 13, 2009, the Board of Pharmacy issued Designated Representative-in-Charge License Number EXC 20146 to Joyce R. Butler (Respondent Butler) as a designated representative in California. The EXC License was in full force and effect at all times relevant to the charges brought herein and will expire on May 1, 2014, unless renewed.

## JURISDICTION

4. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

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

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

## STATUTORY PROVISIONS

6. Section 4161 of the Code states, in pertinent part:

"(a) A person located outside this state that (1) ships, sells, mails, or delivers dangerous drugs or dangerous devices into this state or (2) sells, brokers, or distributes dangerous drugs or devices within this state shall be considered a nonresident wholesaler.

46

(j) The designated representative-in-charge shall be responsible for the nonresident wholesaler's compliance with state and federal laws governing wholesalers. . . ."

7. 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."

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 licensee 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:

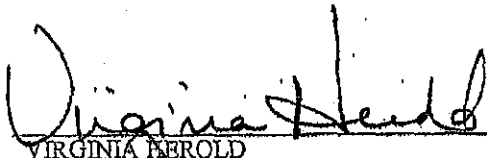
9 1. Revoking or suspending Out of State Distributor License Number OSD 4820, issued  
10 to Cardinal Health;

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

24 SA2013112700  
25 11176460.doc  
26  
27  
28

**Exhibit B**

**Letter of Public Reproval in Case No. 4928**



**California State Board of Pharmacy**  
1625 N. Market Blvd, Suite N219, Sacramento, CA 95834  
Phone (916) 574-7900  
Fax (916) 574-8618  
[www.pharmacy.ca.gov](http://www.pharmacy.ca.gov)

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY  
DEPARTMENT OF CONSUMER AFFAIRS  
GOVERNOR EDMUND G. BROWN JR.

April 30, 2014

Cardinal Health  
2045 Interstate Drive  
Lakeland, FL 33805

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

Re: LETTER OF PUBLIC REPROVAL  
In the Matter of the Accusation Against:  
Cardinal Health, Out of State Distributor License No. OSD 4820, and Joyce R. Butler, Designated Representative-in-Charge License No. EXC 20146

Dear Cardinal Health and Ms. Butler:

On November 4, 2013, the Board of Pharmacy, Department of Consumer Affairs, State of California, filed an Accusation against your Out of State Distributor License and Designated Representative-in-Charge License. The Accusation alleged that you engaged in unprofessional conduct under California Business and Professions Code sections 4161(j) and 4301(n). The Accusation alleged that on or about May 14, 2012, Cardinal Health entered into an Administrative Memorandum of Agreement (MOA) with the United States Department of Justice, Drug Enforcement Administration (DEA) based upon the following facts: (1) Cardinal Health is registered with the DEA at 28 facilities as distributors of Schedule II-V controlled substances, under provisions of the Comprehensive Drug Abuse Prevention Act of 1970, 21 U.S.C. § 801 et seq.; (2) in September 2008, Cardinal Health entered into a Settlement and Release Agreement and Administrative Memorandum of Agreement ("2008 MOA"); (3) Cardinal Health's Lakeland distribution facility ("Cardinal Lakeland") was registered with the DEA as a distributor of Schedule II-V controlled substances, with an expiration date of May 31, 2012; and (4) on February 2, 2012, the DEA issued an order to show cause and immediate suspension of registration to Cardinal Lakeland.

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

Letter of Public Reproval  
Cardinal Health, OSD 4820  
Joyce Butler, EXC 20146  
April 30, 2014  
Page 2

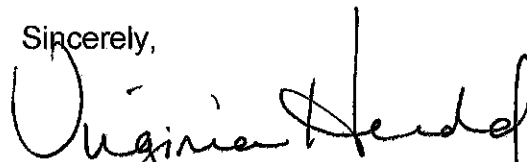
customers and its compliance with the 2008 MOA, in certain respects, were inadequate. Under the terms of the MOA, the agreement remains in full force and effect until May 14, 2017 (five years from its effective date, May 14, 2012).

Under the terms of the MOA, Cardinal Health agreed to: (1) implement various control procedures to ensure that it did not commit further conduct as described above; (2) continued suspension of its authority to handle controlled substances at Cardinal Lakeland until May 15, 2014; and (3) fully cooperate with the DEA. Under the terms of the MOA, the DEA agreed to lift the suspension of Cardinal Lakeland's DEA registration on May 14, 2014, so long as Cardinal complied with the terms of the agreement. The conduct described above and in the MOA occurred while Joyce R. Butler served as Cardinal Health's Representative-in-Charge.

Taking into consideration that Cardinal Health and Joyce R. Butler have fully complied with the terms of the MOA, and that there are other mitigating circumstances in this case that support the determination that they are safe to practice as an Out of State Distributor and Designated Representative-in-Charge, the Board has decided that the charges warrant a public reproval.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Pharmacy, Department of Consumer Affairs issues this letter of public reproval.

Sincerely,

A handwritten signature in black ink, appearing to read "Virginia K. Herold". The signature is fluid and cursive, with a large initial "V" and a long, sweeping underline.

VIRGINIA K. HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs