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

In the Matter of the Accusation Against:
MINDY LOUISE LUNA
P.O. Box 224
El Cajon, CA 92020
Pharmacy Technician Registration No. TCH 98731
Respondent.

Case No. 5982
**DEFAULT
DECISION
AND ORDER**
[Gov. Code, §11520]

FINDINGS OF FACT

1. On June 30, 2017, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5982 against Mindy Louise Luna (Respondent) before the Board of Pharmacy (Board). (Accusation attached as Exhibit A.)

2. On February 3, 2010, the Board issued Pharmacy Technician Registration No. TCH 98731 to Respondent. The Pharmacy Technician Registration expired on October 31, 2015, and has not been renewed.

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1 3. On July 11, 2017, Respondent was served by Certified and First Class Mail copies
2 of Accusation No. 5982, Statement to Respondent, Notice of Defense, Request for Discovery,
3 and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code (Code)
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is P.O. Box 224, El Cajon, CA 92020.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and Code section 124.

9 5. On July 28, 2017, the aforementioned documents were returned by the U.S. Postal
10 Service marked "Not Deliverable as Address, Unable to Forward." The address on the
11 documents was the same as the address on file with the Board. Respondent failed to maintain an
12 updated address with the Board and the Board has made attempts to serve the Respondent at the
13 address on file. Respondent has not made herself available for service and therefore, has not
14 availed herself of her right to file a notice of defense and appear at hearing.

15 6. Government Code section 11506 (c) states, in pertinent part:

16 (c) The respondent shall be entitled to a hearing on the merits if the
17 respondent files a notice of defense . . . and the notice shall be deemed a specific
18 denial of all parts of the accusation . . . not expressly admitted. Failure to file a
19 notice of defense . . . shall constitute a waiver of respondent's right to a hearing,
20 but the agency in its discretion may nevertheless grant a hearing.

21 7. The Board takes official notice of its records and the fact that Respondent failed
22 to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore
23 waived her right to a hearing on the merits of Accusation No. 5982.

24 8. California Government Code section 11520 (a) states, in pertinent part:

25 (a) If the respondent either fails to file a notice of defense . . . or to appear
26 at the hearing, the agency may take action based upon the respondent's express
27 admissions or upon other evidence and affidavits may be used as evidence
28 without any notice to respondent

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1 c. Respondent has subjected her registration to discipline under Code section
2 4301, subdivision (o) for unprofessional conduct in that she violated Code sections 4059 and
3 4060, and Board of Pharmacy Regulations (California Code of Regulations, Title 16, Section
4 1700, et seq.), when she obtained controlled substances using fraud and deceit.

5 d. Respondent has subjected her registration to discipline under Code section
6 4059, subdivision (a) for unprofessional conduct in that she furnished dangerous drugs to herself
7 and another without a prescription.

8 e. Respondent has subjected her registration to discipline under Code section
9 4060, and Health and Safety Code sections 11350, subdivision (a), and 11377, subdivision (a),
10 for unprofessional conduct, in that she possessed controlled substances without a prescription.

11 f. Respondent has subjected her registration to discipline under Code section
12 4301, subdivisions (f), (j), and (o), and Health and Safety Code section 11351, in that she
13 possessed controlled substances for sale.

14 g. Respondent has subjected her registration to discipline under Code section
15 4301, subdivisions (f), (j) and (o) for unprofessional conduct in that she violated Code section
16 4060, Health and Safety Code sections 11350, subdivision (a) and 11377, subdivision (a) for
17 possession of controlled substances without a prescription.

18 h. Respondent has subjected her registration to discipline under Code section
19 4301, subdivision (q), for unprofessional conduct, in that Respondent failed to respond to two
20 separate letters requesting her to contact the inspector for an interview. The letters were sent to
21 both addresses on file with the Board of Pharmacy. Respondent is required to maintain an
22 updated address of record on file with the Board pursuant to Code section 4100. Accordingly,
23 Respondent subverted or attempted to subvert the Board's investigation.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 98731, heretofore issued to Respondent Mindy Louise Luna, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective at 5:00 p.m. on October 25, 2017.

It is so ORDERED on September 25, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

81781039.DOC
DOJ Matter ID:SD2016702575

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(MINDY LOUISE LUNA)