

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

In the Matter of the Accusation Against:

JACY MEIER, aka  
JACY MICHAEL MEIER

Pharmacy Technician's License No. 53645

Respondent.

Case No. 2898

OAH No. 2007090278

DECISION

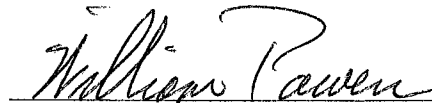
The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy as its Decision in the above-entitled matter.

This Decision shall become effective on February 13, 2008.

IT IS SO ORDERED January 14, 2008.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



WILLIAM POWERS  
Board President

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**PROPOSED DECISION**

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on November 2, 2007.

Maretta D. Ward, Deputy Attorney General, represented complainant.

There was no appearance by or on behalf of respondent.

Submission of the matter was deferred to November 9, 2007, for receipt of a declaration of costs and proof of subsequent arrest. The documents were received, marked for the record and considered. The matter was submitted on November 9, 2007.

**FACTUAL FINDINGS**

1. Upon proof of compliance with Government Code sections 11505 and 11506, the matter proceeded as a default pursuant to Government Code section 11520.

2. Patricia F. Harris made the accusation in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, State of California (Board). Virginia K. Herold made the supplemental accusation in her capacity as the Executive Officer of the Board.

3. On January 7, 2004, the Board issued Pharmacy Technician's License No. 53645 to Jacy Meier, aka Jacy Michael Meier (respondent). The license was in full force and effect at all times relevant to this matter. The evidence indicates that the license expired on August 31, 2007, and has not been renewed.

4. On March 11, 2002, respondent was convicted on his plea of nolo contendere to a misdemeanor violation of Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol level over the legal limit). Respondent was placed on 3 years probation and ordered to pay a fine. This offense occurred before respondent was licensed. Alone, this offense is not cause for disciplinary action. However, in conjunction with the convictions set forth in Findings 5, 6, 7, 8, and 9, this conviction is substantially related to duties, qualifications, and functions of a licensee.

5. On May 27, 2004, respondent was convicted of violating Penal Code section 647, subdivision (f), (disorderly conduct under the influence of drugs), a misdemeanor and a crime that is substantially related to the duties, qualifications and functions of a licensee when taken in conjunction with the convictions set forth in Findings 4, 6, 7, and 8. Respondent was placed on three years court probation and ordered to pay a fine. This offense occurred after respondent was licensed.

6. On December 21, 2004, respondent pled guilty to a violation of Health and Safety Code section 11350, subdivision (a) (possession of a controlled substance, to wit: Cocaine), a felony and a crime that is substantially related to the duties, qualifications, and functions of a licensee. This offense occurred after respondent was licensed.

7. On July 6, 2006, respondent was convicted on a plea of nolo contendere of violating Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol level over the legal limit), a misdemeanor. This conviction is substantially related to the duties, qualifications, and functions of a licensee.

8. On March 18, 2006, respondent was arrested for driving a motor vehicle while under the influence of alcohol or drugs and possessing an open container containing an alcoholic beverage.

On April 17, 2006, a criminal complaint was filed in Alameda County Superior Court charging respondent with driving under the influence of alcohol in violation of Vehicle Code section 23152, subdivisions (a) and (b).

On July 6, 2006, respondent was convicted of a violation of Vehicle Code section 23152, subdivision (b) (driving under the influence) a misdemeanor and a crime that is substantially related to the duties, qualifications, and functions of a licensee. He was placed on three years probation. On August 9, 2006, respondent's driving privilege was restricted.

9. Respondent used alcoholic beverages to an extent or in a matter dangerous and injurious to himself and others.

10. On October 12, 2007, respondent was arrested for possession of a controlled substance for sale (Health & Safe. Code, § 11378), transportation of a controlled substance (Health and Safe. Code, § 11379, subd. (a)), addict in possession of a firearm (Pen. Code, §

12021, subd. (a), and driving while license is suspended (Veh. Code, § 14601.1, subd. (A)). Further action is pending.

11. Respondent did not present any evidence of mitigation, extenuation or rehabilitation.

12. The reasonable cost to prosecute this case is \$9,894.50. This amount is allowed under Business and Professions Code section 125.3.

### LEGAL CONCLUSIONS

1. By reason of the matters set forth in Findings 4, 5, 6, 7, 8, 9, and 10, cause for disciplinary action exists pursuant to Business and Professions Code section 4301, subdivision (h) (unprofessional conduct – use of alcoholic beverages or drugs in a dangerous manner).

2. By reason of the matters set forth in Findings 4, 5, 7, and 8, cause for disciplinary action exists pursuant to Business and Professions Code section 4301, subdivision (l), as defined by title 16, California Code of Regulations, section 1770 (conviction of a substantially related crime).

3. By reason of the matters set forth in Finding 12, cost recovery in the amount of \$9,894.50 is allowed pursuant to Business and Professions Code section 125.3.


4. The matters set forth in Finding 11, have been considered in making the following order.

### ORDER

1. Pharmacy Technician License No. 53645 issued to Jacy Meier, aka Jacy Michael Meier, is hereby revoked pursuant to Legal Conclusions 1 and 2, jointly and separately.

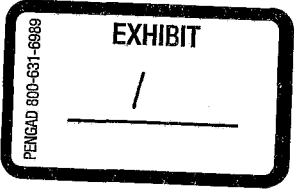
2. Cost recovery in the amount of \$9,894.50 is ordered to be paid to the Board.

DATED: 12/3/07



RUTH S. ASTLE  
Administrative Law Judge  
Office of Administrative Hearings

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of the State of California  
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6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:  
12 JACY MEIER, a.k.a.  
13 JACY MICHAEL MEIER  
14 38758 Delphinium Ct  
15 Newark, California 94560  
16 Pharmacy Technician's License No. 53645  
Respondent.

Case No. 2008  
OAH No.  
**A C C U S A T I O N**

17 Complainant alleges:

18 PARTIES

19 1. Patricia F. Harris (Complainant) brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer  
21 Affairs.

22 2. On or about January 7, 2004, the Board of Pharmacy issued Pharmacy  
23 Technician's License No. 53645 to Jacy Meier (Respondent). The Pharmacy Technician's  
24 license was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on August 31, 2007, unless renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Board of Pharmacy (Board),  
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2           4.       Section 490 of the Code provides that the Board may suspend or revoke a  
3 license on the ground that the licensee has been convicted of a crime, if the crime is substantially  
4 related to the qualifications, functions, or duties of the business or profession for which the  
5 license was issued. A conviction within the meaning of this section means a plea or verdict of  
6 guilty or a conviction following a plea of nolo contendere.

7           5.       Section 4301 of the Code states in relevant parts, that the Board shall take  
8 action against any holder of a license who is guilty of unprofessional conduct including, but not  
9 limited to, any of the following:

10           ...

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

13           (k) The conviction of more than one misdemeanor or any felony involving the use,  
14 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any  
15 combination of those substances.

16           (l) The conviction of a crime substantially related to the qualifications, functions,  
17 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
18 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
19 substances or of a violation of the statutes of this state regulating controlled substances or  
20 dangerous drugs shall be conclusive evidence of unprofessional conduct.

21           6.       Title 16, California Code of Regulations, section 1770, states that for the  
22 purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division  
23 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be  
24 considered substantially related to the qualifications, functions or duties of a licensee or  
25 registrant if to a substantial degree it evidences present or potential unfitness of a licensee or  
26 registrant to perform the functions authorized by his license or registration in a manner consistent  
27 with the public health, safety, or welfare.

28           7.       Section 125.3 of the Code provides, in pertinent part, that the Board may

1 request the administrative law judge to direct a licensee found to have committed a violation or  
2 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
3 and enforcement of the case.

4 FIRST CAUSE FOR DISCIPLINE

5 (Convictions)

6 8. Respondent is subject to disciplinary action under sections 490, 4301(j)  
7 and/or 4301(l) of the Code, (as defined in Title 16, California Code of Regulations section 1770),  
8 in that respondent has been convicted of the following crimes which are substantially related to  
9 the qualifications, functions or duties of the profession for which respondent is licensed:

10 a. On or about, March 11, 2002, respondent appeared before the Superior  
11 Court, County of Santa Clara, Sunnyvale Facility, in the matter entitled *People of the State of*  
12 *California vs. Jacy Michael Meier (8/30/1979)*, Case No. EE 221002. Respondent was convicted  
13 on his plea of nolo contendere to the misdemeanor violation of Vehicle Code section 23152(b)  
14 (driving with a blood alcohol level of 0.08 or more) and sentenced by the Court to 6 days in jail,  
15 sentence suspended. The Court ordered respondent to serve 3 years of formal probation and to  
16 pay fines.

17 b. On or about May 27, 2004, respondent appeared before the Superior  
18 Court of Alameda, Fremont Hall of Justice, in the Court's Case No. 204241, on the misdemeanor  
19 charge of violating Penal Code section 647(f) (disorderly conduct under the influence of drugs).  
20 Respondent was convicted of the violation and sentenced to 1 day in jail with 3 years probation  
21 and to pay fines.

22 SECOND CAUSE FOR DISCIPLINE

23 (Convictions Involving Use or Consumption of Drugs and/or Alcohol)

24 9. Respondent is subject to disciplinary action under sections 490, 4301(k) of  
25 the Code, (as defined in Title 16, California Code of Regulations section 1770), in that  
26 respondent was convicted of more than one misdemeanor involving the use, consumption or self-  
27 administration of any dangerous or alcoholic beverage, or any combination of those substances,  
28 as set forth in paragraph 8, and subsequent subsections, above.

