BEFORE THE DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: Roth D. Neller, M.D. Certificate # A-18605 Respondent.	D-4242

DECISION

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

This Decision shall become effective on February 7, 1991.

IT IS SO ORDERED January 8, 1991.

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA

Theresa Claassen

THERESA CLAASSEN, Secretary-Treasurer

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DIVISION OF MEDICAL QUALITY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	No. D-4242
ROTH D. NELLER, M.D. 493 Mandalay Avenue Clearwater Beach, FL 33515	OAH NO. N-36437
Physician and Surgeon Certificate No. A18605	
Respondent.	

PROPOSED DECISION

This matter was heard by M. Amanda Behe, Administrative Law Judge, Office of Administrative Hearings, in Sacramento, California on October 15, 1990.

Joel S. Primes, Supervising Deputy Attorney General, represented the complainant.

Respondent failed to appear although properly served with the Accusation and Notice of Hearing.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

Kenneth J. Wagstaff is the Executive Officer of the Medical Board of California (hereinafter "the Board") and made and filed the Accusation in his official capacity. Respondent failed to file a Notice of Defense to the Accusation.

II

The Board issued physician and surgeon certificate number A18605 to Roth D. Neller, M.D. (hereinafter "respondent") on July 1, 1959. Respondent's certificate is in "canceled" status since April 30, 1986, due to his nonpayment of renewal fees.

III

Respondent has subjected his certificate to discipline under Business and Professions Code section 2234 on the grounds of unprofessional conduct as defined by section 2305 of the Code in that on August 26, 1988, the Board of Medicine for the State of Florida disciplined his license by placing him on probation for five years.

By his stipulation with the Florida Board of Medicine in resolution of two separate administrative cases respondent was reprimanded, ordered to pay a fine of $2,000, relinquished his rights to prescribe, dispense, administer and order schedule II controlled substances except in an institutional setting, and placed on probation. The underlying cases charged respondent with excessive prescription of Percocet, Seconal and Valium without examination and evaluation to patients whom he knew or should have known were addicted to such drugs.

DETERMINATION OF ISSUES

Clear and convincing evidence to a reasonable certainty establishes cause for revocation of respondent's license pursuant to Business and Professions Code sections 2234 and 2305.

ORDER

The physician and surgeon certificate issued to respondent Roth D. Neller is revoked.

Dated: November 21, 1990

M. AMANDA BEHE
Administrative Law Judge
Office of Administrative Hearings

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of the State of California
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Attorneys for Complainant

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: ROTH D. NELLER, M.D. 493 Mandalay Avenue Clearwater Beach, FL 33515 Physician and Surgeon Certificate No. A18605 Respondent.	NO. D-4242 ACCUSATION

Kenneth J. Wagstaff, for causes for discipline, alleges:

1. Complainant Kenneth J. Wagstaff makes and files this accusation in his official capacity as Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On July 1, 1959, physician's and surgeon's certificate number A18605 was issued under the laws of the State

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of California to Roth D. Neller (hereinafter referred to as respondent). On April 30, 1986, the license was placed on a cancelled status due to nonpayment of renewal fees and has not been renewed.

3. Under Business and Professions Code section 2220, the Division of Medical Quality may take action against all physicians and surgeons guilty of violating the provisions of the Medical Practice Act.

Under Business and Professions Code section 118(b), the cancellation of a license by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground. Under Business and Professions Code section 2427, a license may be reinstated within five years after its expiration upon filing an application for renewal and upon payment of all fees.

4. Respondent has subjected his certificate to discipline under Business and Professions Code section 2234 on the grounds of unprofessional conduct as defined by section 2305 of that code in that on or about August 26, 1988, the Board of Medicine for the State of Florida, disciplined his license by

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placing him on probation for a period of five (5) years with conditions.

WHEREFORE, complainant prays a hearing be had and that the Division of Medical Quality make its order:

1. Revoking or suspending certificate number A18605, issued to Roth D. Neller, M.D.

2. Prohibiting Roth D. Neller, M.D. from supervising a physician's assistant.

3. Taking such other and further action as may be deemed proper and appropriate.

DATED: May 21, 1990

KENNETH J. WAGSTAFF
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

03573110-
SA90AD0805
(Leslie Gillum)

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