

Public

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

LI STAN XUHUI, M.D.

s/k/a Stan X. Li, M.D.

COMMISSIONER'S
ORDER AND
NOTICE OF
HEARING

TO: LI STAN XUHUI, M.D.
REDACTED ADDRESS

LI STAN XUHUI, M.D.
c/o Raymond Belair
Belair and Evans, LLP
61 Broadway, New York, NY 10006

The undersigned, Nirav R. Shah, M.D., M.P.H., Commissioner of Health, after an investigation, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, and upon the Statement of Charges attached hereto and made a part hereof, has determined that the continued practice of medicine in the State of New York by LI STAN XUHUI, M.D, the Respondent, constitutes an imminent danger to the health of the people of this state.

It is therefore:

ORDERED, pursuant to N.Y. Pub. Health Law §230(12)(a), that effective immediately LI STAN XUHUI, M.D, Respondent, shall not practice medicine in the State of New York. This Order shall remain in effect unless modified or vacated by the Commissioner of Health pursuant to N.Y. Pub. Health Law §230(12)(a).

PLEASE TAKE NOTICE that a hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230, and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on February 2, 2012, at 10:00 a.m., at the offices of the New York State Health Department, 90 Church Street, Fourth Floor,

New York, NY 10007 and at such other adjourned dates, times and places as the committee may direct. The Respondent may file an answer to the Statement of Charges with the below-named attorney for the Department of Health.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. The Respondent shall appear in person at the hearing and may be represented by counsel. The Respondent has the right to produce witnesses and evidence on his behalf, to issue or have subpoenas issued on his behalf for the production of witnesses and documents and to cross-examine witnesses and examine evidence produced against him. A summary of the Department of Health Hearing Rules is enclosed. Pursuant to §301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The hearing will proceed whether or not the Respondent appears at the hearing. Scheduled hearing dates are considered dates certain and, therefore, adjournment requests are not routinely granted. Requests for adjournments must be made in writing to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 433 River Street, Fifth Floor South, Troy, NY 12180, ATTENTION: HON: JAMES HORAN, ACTING DIRECTOR, BUREAU OF ADJUDICATION, and by telephone (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation.

At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty or sanction to be imposed

or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York
January 23, 2012

REDACTED SIGNATURE

Nirav R. Shah, M.D., M.P.H.
Commissioner of Health
New York State Health Department

Inquiries should be directed to:

Daniel Guenzburger
Associate Counsel
N.Y.S. Department of Health
Division of Legal Affairs
90 Church Street
New York, NY 10007
212-417-4450

SECURITY NOTICE TO THE LICENSEE

The proceeding will be held in a secure building with restricted access. Only individuals whose names are on a list of authorized visitors for the day will be admitted to the building

No individual's name will be placed on the list of authorized visitors unless written notice of that individual's name is provided by the licensee or the licensee's attorney to one of the Department offices listed below.

The written notice may be sent via facsimile transmission, or any form of mail, but must be received by the Department **no less than two days prior to the date** of the proceeding. The notice must be on the letterhead of the licensee or the licensee's attorney, must be signed by the licensee or the licensee's attorney, and must include the following information:

Licensee's Name _____ Date of Proceeding _____

Name of person to be admitted _____

Status of person to be admitted _____
(Licensee, Attorney, Member of Law Firm, Witness, etc.)

Signature (of licensee or licensee's attorney) _____

This written notice must be sent to:

New York State Health Department
Bureau of Adjudication
Hedley Park Place
433 River Street, Fifth Floor South
Troy, NY 12180
Fax: 518-402-0751

IN THE MATTER
OF
LI STAN XUHUI, M.D.

*o/k/g Stan X. Li
m
2*

STATEMENT
OF
CHARGES

LI STAN XUHUI, M.D., the Respondent, was authorized to practice medicine in New York State on or about June 15, 1999, by the issuance of license number 214281 by the New York State Education Department.

FACTUAL ALLEGATIONS

- A. Respondent, who is a board certified anesthesiologist and board certified in the sub-specialty of pain management, had a one day a week pain management practice at an office located at 132-59 41st Rd, Flushing, New York. According to Respondent's office record, on or about and between May 2, 2009, and July 10, 2010, Respondent treated Patient A, a 39 year old male, with opioid and benzodiazepene therapy. Patient A complained of low back pain and had a past medical history of bi-polar disorder and substance abuse. On or about January 17, 2010, March 1, 2010, and May 19, 2010, Patient A was admitted to the Flushing Hospital Emergency Department for issues related to substance abuse and dependence. Respondent was aware that Patient A had multiple hospitalizations for drug related issues. Regarding Patient A, Respondent deviated from medically accepted standards in that he:
1. Failed to appropriately address behaviors consistent with medication abuse and addiction, including but not limited to failing to adequately respond to the following:
 - a. Frequent hospitalizations for substance abuse.

- b. Patient reports of lost controlled substance prescriptions and requests for early refills.
 - c. Reports from the Bureau of Narcotic Enforcement that Patient A was receiving opioid medication and benzodiazepenes from multiple prescribers.
2. Failed to discontinue the prescribing of controlled substances in an appropriately timely manner.
3. Inappropriately prescribed Alprazolam
4. Failed to obtain Patient A's hospital records for emergency room admissions related to substance abuse/dependence.
5. Exclusively treated Patient A with controlled substances, failing to appropriately employ a multi-disciplinary strategy that would include physical and behavioral therapy and the prescribing of adjunctive medications.
6. Failed to enter into an opioid contract with the Patient at the onset of treatment.
7. Failed to maintain a record that accurately reflects the evaluation and treatment of the Patient.

B. According to Respondent's office record, on or about and between November 29, 2008, and July of 2011, Respondent treated Patient B, a 25 year old female, with opioid and benzodiazepene therapy for low back pain. Regarding Patient B, Respondent deviated from medically accepted standards in that he:

1. Failed to appropriately address behaviors consistent with medication abuse and addiction, including but not limited to failing to adequately respond to the following:

- a. Multiple requests by Patient B for early refills and dosage increases.
 - b. Reports from the Bureau of Narcotic Enforcement that Patient B was receiving opioid medication and benzodiazepenes from multiple prescribers.
2. Failed to discontinue the prescribing of controlled substances in an appropriately timely manner.
 3. Inappropriately prescribed Alprazolam.
 4. Failed to enter into an opioid contract with the Patient at the onset of treatment.
 5. Failed to maintain a record that accurately reflects the evaluation and treatment of the Patient.
- C. According to Respondent's office record, on or about and between February 14, 2009, and April 30, 2011, Respondent treated Patient C, a 32 year old male, with opioid and benzodiazepene therapy. Patient C complained of neck pain. Regarding Patient C, Respondent deviated from medically accepted standards in that he:
1. Failed to appropriately address behaviors consistent with medication abuse and addiction, including but not limited to failing to adequately respond to Reports from the Bureau of Narcotic Enforcement that Patient C was receiving opioid medication and benzodiazepenes from multiple prescribers.
 2. Failed to discontinue the prescribing of controlled substances in an appropriately timely manner.
 3. Inappropriately prescribed Alprazolam.

4. Exclusively treated Patient C with controlled substances, failing to employ a multi-disciplinary strategy that would include physical and behavioral therapy and the prescribing of adjunctive medications.
5. Failed to adequately explore the cause of Patient C's neck pain through an appropriate diagnostic work-up.
6. Failed to enter into an opioid contract with the Patient at the onset of treatment.
7. Failed to maintain a record that accurately reflects the evaluation and treatment of the Patient.

D. According to Respondent's office record, on or about and between May of 2009, and July of 2011, Respondent treated Patient D, a 25 year old male, with opioids and benzodiazepenes. Patient D complained of shoulder pain. Regarding Patient D, Respondent deviated from medically accepted standards in that he:

1. Failed to appropriately address behaviors consistent with medication abuse and addiction, including but not limited to failing to adequately respond to the following:
 - a. Patient requests for early refills.
 - b. Reports from the Bureau of Narcotic Enforcement that Patient A was receiving opioid medication and benzodiazepenes from multiple prescribers.
 - c. Pharmacist report that Patient D exhibited behaviors consistent with medication abuse.
2. Failed to discontinue the prescribing of controlled substances in an appropriately timely manner.

3. Inappropriately prescribed Alprazolam.
4. Failed to adequately explore the cause of Patient D's shoulder pain through an appropriate diagnostic work-up
5. Failed to enter into an opioid contract with the Patient at the onset of treatment.
6. Failed to maintain a record that accurately reflects the evaluation and treatment of the Patient.

E. According to Respondent's office record, on or about and between July 26, 2009, and May 21, 2011, Respondent treated Patient E with opioids and benzodiazepenes. Patient E complained of pain in the neck, back, shoulder and knee(s). Regarding Patient E, Respondent deviated from medically accepted standards in that he:

1. Failed to appropriately address behaviors consistent with medication abuse and addiction, including but not limited to failing to adequately respond to the following:
 - a. Patient reports of lost controlled substance prescriptions and requests for early refills.
 - b. Reports from the Bureau of Narcotic Enforcement that Patient E was receiving opioid medication and benzodiazepenes from multiple prescribers.
 - c. Patient E abused alcohol concurrent with treatment.
2. Failed to discontinue the prescribing of controlled substances in an appropriately timely manner.
3. Inappropriately prescribed Alprazolam.
4. Failed to adequately explore the cause of Patient E's pain syndromes through an appropriate diagnostic work-up.

5. Failed to enter into an opioid contract with the Patient at the onset of treatment.
 6. Respondent failed to maintain a record that accurately reflects the evaluation and treatment of the Patient.
- F. Respondent prescribed controlled substances to Patients A through E purportedly, but not in fact, in the good faith practice of medicine and intended to deceive.

SPECIFICATION OF CHARGES

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(3) by practicing the profession of medicine with negligence on more than one occasion as alleged in the facts of:

1. Paragraphs A through E and their respective subparagraphs.

SECOND THROUGH SIXTH SPECIFICATIONS

GROSS NEGLIGENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(4) by practicing the profession of medicine with gross negligence on a particular occasion as alleged in the facts of the following:

2. Paragraph A and its subparagraphs.
3. Paragraph B and its subparagraphs.
4. Paragraph C and its subparagraphs.
5. Paragraph D and its subparagraphs.
6. Paragraph E and its subparagraphs.

SEVENTH SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(5) by practicing the profession of medicine with incompetence on more than one occasion as alleged in the facts of:

7. Paragraphs A through E and their respective subparagraphs.

EIGHTH SPECIFICATION

GROSS INCOMPETENCE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(6) by practicing the profession of medicine with gross incompetence as alleged in the facts of the following:

8. Paragraphs A through E and their respective subparagraphs.

NINTH SPECIFICATION

FRAUDULENT PRACTICE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(2) by practicing the profession fraudulently or beyond its authorized scope as alleged in the facts of the following:

9. Paragraphs A through F and their respective subparagraphs.

TENTH SPECIFICATION

WILLFULLY OR GROSSLY NEGLIGENTLY FAILING TO COMPLY WITH

SUBSTANTIAL LAWS GOVERNING THE PRACTICE

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(16) by willfully or grossly negligent failure to comply with

substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of medicine (to wit: Article 33 of the Public Health Law and regulations promulgated pursuant to the authority thereof) as alleged in the facts of the following:

10. Paragraphs A through F and their respective subparagraphs.

ELEVENTH SPECIFICATION

MORAL UNFITNESS

Respondent is charged with committing professional misconduct as defined in N.Y. Educ. Law § 6530(20) by engaging in conduct in the practice of the profession of medicine that evidences moral unfitness to practice as alleged in the facts of the following:

11. Paragraphs A through F and their respective subparagraphs.

DATE: January 23, 2012
New York, New York

REDACTED SIGNATURE

Roy Nemerson
Deputy Counsel
Bureau of Professional Medical Conduct