



***New York State Board for Professional Medical Conduct***

*433 River Street, Suite 303 • Troy, New York 12180-2299 • (518) 402-0863*

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NYS Department of Health*

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NYS Department of Health*

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*Vice Chair*

Ansel R. Marks, M.D., J.D.  
*Executive Secretary*

February 4, 2003

***CERTIFIED MAIL-RETURN RECEIPT REQUESTED***

Andrew Black, M.D.  
Hilltop Medical, P.C.  
907 St. Marks Avenue  
Brooklyn, NY 11213-2004

RE: License No. 143801

Dear Dr. Black:

Enclosed please find Order #BPMC 03-31 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect February 4, 2003.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.

Executive Secretary

Board for Professional Medical Conduct

Enclosure

cc: Mark Fuhrman, Esq  
Lifshutz, Polland and Assoc. P.C.  
675 Third Avenue  
New York, NY 11213-2004

IN THE MATTER  
OF  
ANDREW BLACK, M.D. and HILLTOP MEDICAL, P.C.

CONSENT  
ORDER

BPMC No. ~~31~~ 03-31

Upon the application of (Respondent) ANDREW BLACK, M.D. and HILLTOP MEDICAL, P.C. in the attached Consent Agreement and Order, which is made a part of this Consent Order, it is

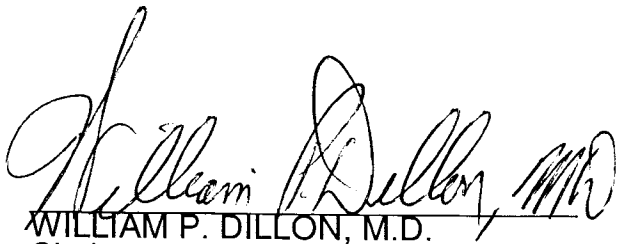
ORDERED, that the Consent Agreement, and its terms, are adopted and SO ORDERED, and it is further

ORDERED, that this Order shall be effective upon issuance by the Board, either

- by mailing of a copy of this Consent Order, either by first class mail to Respondent at the address in the attached Consent Agreement or by certified mail to Respondent's attorney, OR
- upon facsimile transmission to Respondent or Respondent's attorney, Whichever is first.

SO ORDERED.

DATED: 2/3/03

  
WILLIAM P. DILLON, M.D.  
Chair  
State Board for Professional Medical Conduct

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

**IN THE MATTER  
OF  
ANDREW BLACK, M.D. and HILLTOP MEDICAL, P.C.**

**CONSENT  
AGREEMENT  
AND  
ORDER**

ANDREW BLACK, M.D., individually and on behalf of HILLTOP MEDICAL, P.C. represents that all of the following statements are true, deposes and says:

That on or about October 4, 1980 I was licensed to practice as a physician in the State of New York, and issued License No. 143801 by the New York State Education Department. I am a shareholder and officer of Hilltop Medical, P.C., a professional corporation authorized pursuant to Article 15 of the Business Corporation Law.

My current address is 907 St. Marks Avenue, Brooklyn, NY 11213-2004 and I will advise the Director of the Office of Professional Medical Conduct of any change of address.

I understand that the New York State Board for Professional Medical Conduct has charged me and Hilltop Medical, P.C. with a specification of professional misconduct.

A copy of the Statement of Charges, marked as Exhibit "A", is attached to and part of this Consent Agreement.

I agree, individually and on behalf of the professional corporation, not to contest the specification of unwarranted testing insofar as that specification relates to the ordering of neuro-diagnostic tests, in full satisfaction of the charges and I agree to the following penalty:

Pursuant to §230-a(3) of the Public Health Law, my license to practice

medicine in the state of New York shall be limited so as to preclude me from seeking reimbursement under no-fault and workers compensation insurance, either directly or indirectly through ownership in a business entity.

Pursuant to Sec. 230-a(3) of the Public Health Law, my license to practice medicine in the state of New York shall be limited in that I shall not practice medicine outside of the area of internal medicine. Nothing in this agreement shall preclude me from ordering medically indicated diagnostic tests, but I may only bill for the performance of diagnostic tests approved by the Director of OPMC which approval shall not be unreasonably withheld.

I shall expeditiously seek to dissolve Hilltop Medical, P.C. All necessary documents for the dissolution of the professional corporation shall be filed with the appropriate authorities within 90 days of the effective date of this order .

I further agrees that for a period of three years the Consent Order shall impose the following conditions:

That Respondent's conduct shall conform to moral and professional standards of conduct and governing law. Any act of professional misconduct by Respondent as defined by New York State Education Law §6530 or §6531 shall constitute a violation of conditions and may subject Respondent to an action pursuant to New York State Public

Health Law §230.

That Respondent shall maintain current registration of licensure with the New York State Education Department Division of Professional Licensing Services (except during periods of actual suspension), and shall pay all registration fees. This condition shall take effect thirty (30) days after the Consent Order's effective date and will continue so long as Respondent remains licensed in New York State; and

That Respondent shall cooperate fully with the Office of Professional Medical Conduct (OPMC) in its administration and enforcement of this Order and in its investigations of matters concerning Respondent. Respondent shall respond in a timely manner to all OPMC requests for written periodic verification of Respondent's compliance with this Order. Respondent shall meet with a person designated by the Director of OPMC, as directed. Respondent shall respond promptly and provide all documents and information within Respondent's control, as directed. This condition shall take effect upon the Board's issuance of the Consent Order and will continue so long as Respondent remains licensed in New York State.

Respondent shall provide the Director, Office of Professional Medical Conduct (OPMC), Hedley Park Place, 433 River Street Suite 303, Troy, New York 12180-2299 with the following information, in writing, and ensure that such information is kept current: a full description of Respondent's employment and practice; all professional and residential addresses and telephone numbers within and outside New York State;

and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty (30) days of each action.

That the period of the conditions shall toll when Respondent is not engaged in active medical practice in New York State for a period of thirty (30) consecutive days or more. Respondent shall notify the Director of OPMC, in writing, if Respondent is not currently engaged in, or intends to leave, active medical practice in New York State for a consecutive thirty (30) day period. Respondent shall then notify the Director again at least fourteen (14) days before returning to active practice. Upon Respondent's return to active practice in New York State, the period of conditions will resume.

Within thirty days of the effective date of the order, Respondent shall practice medicine only when monitored by a licensed physician, ("practice monitor") proposed by Respondent and subject to the written approval of the Director of OPMC.

Respondent shall make available to the monitor any and all records or access to the practice requested by the monitor, including on-site observation. The practice monitor shall visit Respondent's medical practice at each and every location, on a random unannounced basis at least monthly and shall examine a selection (no fewer than 20) of records maintained by Respondent, including patient records, prescribing information and office records. The review will determine whether the Respondent's medical practice is conducted in accordance with the terms of this Consent Order and the generally accepted

standards of professional medical care. Any perceived deviations or refusal to cooperate with the monitor shall be reported within 24 hours to OPMC.

Respondent shall be solely responsible for all expenses associated with monitoring, including fees, if any, to the monitoring physician.

Respondent shall cause the practice monitor to report quarterly, in writing, to the Director of OPMC.

Respondent shall maintain medical malpractice insurance coverage with limits no less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director of OPMC prior to Respondent's practice after the effective date of this Order.

I stipulate that my failure to comply with any conditions of this Order shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that if I am charged with professional misconduct in future, this Consent Agreement and Order **shall** be admitted into evidence in that proceeding.

I ask the Board to adopt this Consent Agreement.

I understand that if the Board does not adopt this Consent Agreement, none of its terms shall bind me or constitute an admission of any of the acts of alleged misconduct; this Consent Agreement shall not be used against me in any way and shall be kept in strict confidence; and the Board's denial shall be without prejudice to

the pending disciplinary proceeding and the Board's final determination pursuant to the Public Health Law.

I agree that, if the Board adopts this Consent Agreement, the Chair of the Board shall issue a Consent Order in accordance with its terms. I agree that this Order shall take effect upon its issuance by the Board, either by mailing of a copy of the Consent Order by first class mail to me at the address in this Consent Agreement, or to my attorney by certified mail, OR upon facsimile transmission to me or my attorney, whichever is first.

I ask the Board to adopt this Consent Agreement of my own free will and not under duress, compulsion or restraint. In consideration of the value to me of the Board's adoption of this Consent Agreement, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive my right to contest the Consent Order for which I apply, whether administratively or judicially, I agree to be bound by the Consent Order, and ask that the Board adopt this Consent Agreement.




ANDREW M. BLACK, M.D., individually and on behalf of HILLTOP MEDICAL, P.C., Respondents

Dated: January 21, 2003




The undersigned agree to Respondent's attached Consent Agreement and to its proposed penalty, terms and conditions.

DATE: January 21, 2003

  
MARK FUHRMAN, ESQ.  
Lifshutz, Polland and Associates  
Attorney for Respondent

DATE: 1/22/03

  
Daniel Guenzburger  
Associate Counsel  
Bureau of Professional Medical Conduct

DATE: 1/29/03

  
DENNIS J. GRAZIANO  
Director  
Office of Professional Medical Conduct

EXHIBIT A

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

STATEMENT  
OF  
CHARGES

IN THE MATTER  
OF  
ANDREW BLACK and HILLTOP MEDICAL, P.C.

Andrew Black, M.D., Respondent, was authorized to practice medicine in New York State on or about October 4, 1980, by the issuance of license number 143801 by the New York State Education Department.

Hilltop Medical, P.C., Respondent, a professional service corporation, was authorized by the New York State Department of State on December 10, 1998. Respondent Andrew Black is an officer and shareholder of Hilltop Medical, P.C.

FACTUAL ALLEGATIONS

- A. On or about and between September 7, 1999 and March 15, 2000 the Respondents treated Patient A, a 23 year old female, at 251-12 Hillside Avenue, Bellerose, New York. Patient A reported that she had been in an automobile accident on September 2, 1999. (Patient A and the other patients in the Statement of Charges are identified in the annexed appendix.) During the period of treatment regarding Patient A, Respondents:
1. Inappropriately ordered the following diagnostic tests:
    - a. Abdominal and renal sonogram.
    - b. MRI of cervical spine.

- c. Neuro-selective CPT studies.
- d. Nerve conduction studies.
- e. Somato sensory evoked potential studies.

2. Failed to maintain a record that accurately reflects the evaluation and treatment of the patient.

B. On or about and between July 21, 1999 and January 21, 2000 the Respondents treated Patient B, a 49 year old male. Patient B reported that he had been in an automobile accident on July 20, 1999. During the period of treatment regarding Patient B, Respondents:

1. Inappropriately ordered the following:
  - a. MRI of the lumbosacral spine.
  - b. MRI of the cervical spine.
  - c. Echocardiogram.
  - d. Abdominal and renal sonogram.
  - e. Nerve conduction studies.
  - f. Neuro-selective CPT studies.
  - g. Somato sensory evoked potential studies.
2. Inappropriately referred Patient B for psychological consultation.
3. Failed to maintain a record that accurately reflects the evaluation and treatment of the patient.

C. On or about and between September 1, 1999 and December 21, 2000, Respondents treated Patient C, a 47 year old male. Patient C reported that he had been in an automobile accident on August 31, 1999. During the period of treatment regarding Patient C, Respondents:

1. Inappropriately ordered the following:
  - a. MRI of the lumbosacral spine.
  - b. MRI of the cervical spine.
  - c. Neuro-selective CPT studies.
  - d. Nerve conduction studies.
  - e. Somato sensory evoked potential studies.
  - f. Echocardiogram.
  - g. Abdominal and renal sonogram.
2. Failed to maintain a record that accurately reflects the evaluation and treatment of the patient.
3. Respondent Hilltop Medical, P.C., through its agents inappropriately performed and/or inadequately interpreted nerve conduction studies.

D. On or about and between April 6, 1999 and August 23, 1999, Respondents treated Patient D, a 52 year old female. Patient D reported that she had been in a motor vehicle accident on April 1, 1999. During the period of treatment

regarding Patient D, Respondents:

1. Inappropriately ordered the following:
  - a. MRI of the lumbosacral spine.
  - b. Neuro-selective CPT studies.
  - c. Nerve conduction studies.
  - d. Somato sensory evoked potential studies.
  - e. Abdominal and renal sonogram.
  
2. Failed to maintain a record that accurately reflects the evaluation and treatment of the patient.
  
3. Respondent Hilltop Medical, P.C., through its agents inappropriately performed and/or inadequately interpreted nerve conduction studies.

E. On or about and between March 26, 1999 and November 6, 1999, Respondents treated Patient E, a 40 year old male. Patient E reported that he had been in a motor vehicle accident on March 24, 1999. During the period of treatment regarding Patient E, Respondents:

1. Inappropriately ordered the following:
  - a. MRI of the lumbosacral spine.
  - b. MRI of the cervical spine.
  - c. Neuro-selective CPT studies.
  - d. Nerve conduction studies.

- e. Somato sensory evoked potential studies.
  - f. Abdominal and renal sonogram.
- 
- 2. Inappropriately referred the patient for a psychological consultation.
  - 3. Failed to maintain a record that accurately reflects the evaluation and treatment.
  - 4. Respondent Hilltop Medical, P.C., through its agents inappropriately performed and/or inadequately interpreted nerve conduction studies.

### **SPECIFICATION OF CHARGES**

#### **SPECIFICATION**

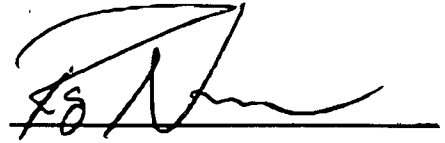
#### **UNWARRANTED TESTS/TREATMENT**

Respondents are charged with committing professional misconduct as defined in N.Y. Educ. Law §6530(35) by ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient, as alleged in the facts of:

- 1. A, A1, A1(a), A1(b), A1(c), A1(d), A1(e), B, B1, B1(a), B1(b), B1(c), B1(d), B1(e), B1(f), B1(g), B2, C, C1, C1(a), C1(b), C1(c), C1(d), C1(e), C1(f), C1(g), D, D1, D1(a), D1(b), D1(c), D1(d), D1(e), E, E1, E1(a), E1(b), E1(c), E1(d), E1(e), E1(f), and/or

E(2).

DATED: January , 2003  
New York, New York

A handwritten signature in black ink, appearing to read "Roy Nemerson", written over a horizontal line.

Roy Nemerson  
Deputy Counsel  
Bureau of Professional  
Medical Conduct