

Taking a Leaf from 'Pot Docs'

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Since 1996, a tiny cadre of California physicians has been recommending marijuana for medicinal use. They've done so at their professional peril.

SANTA BARBARA — After nearly four decades in medicine, Dr. David Bearman seems the incarnation of a trusted old-school physician. His resume is long, his record unblemished. It's his choice of treatment that makes him conspicuous.

For nearly every patient, Bearman recommends the same remedy: marijuana. There is the young lady with epileptic seizures, the middle-aged man with multiple sclerosis, the amputee bedeviled by phantom limb pain.

Bearman's practice, based on a controversial curative not found on pharmacy shelves, has proved both lonely and professionally perilous.

Although the courts have upheld a doctor's right to recommend cannabis for the seriously ill, few dare do so. Among the exceptions is a tight-knit cadre of about 15 California physicians. Dubbed "pot docs," even by friends, they blithely claim credit for nearly half the estimated 100,000 marijuana recommendations issued in the eight years since California approved medical use of the drug.

There is Bearman in Santa Barbara and Dr. Frank Lucido, a family doctor in Berkeley. Dr. Tod Mikuriya, a peripatetic Bay Area medical marijuana pioneer, has written approvals for 8,000 patients. A presidential drug czar once lambasted his brand of medicine as a "Cheech and Chong show."

The criticism has been accompanied by intense scrutiny. At least 11 of the cannabis doctors have weathered investigations by the Medical Board of California. Half the cases closed without formal accusations. But a few drew blood.

One Northern California physician settled for three years of professional probation rather than fight accusations that a few of his marijuana patients had no medical need. Another

doctor, accused of fabricating pot approvals, lost his right to practice for two years while the disciplinary case played out. He settled for five years' probation.

Medical Board officials say the problem is not the marijuana, but the way the doctors practice medicine. Are patients thoroughly examined? Does the doctor discuss other options?

Joan Jerzak, the Medical Board's chief investigator, says that some doctors eager to legalize recreational use "don't mind flouting the law."

But to the pot docs, the attacks are about old grudges that will not die. They say they've been singled out by a law enforcement establishment still displeased over passage of Proposition 215, the 1996 ballot measure that legalized marijuana for the seriously ill.

"Their attitude is, 'This isn't medicine, but rather a way to abet drug abusers,' " said Dr. Philip Denney, who practices as if every patient is a federal narcotics agent. "They have scared the hell out of California doctors, and it's been left to us so-called mavericks."

The cannabis doctors say they practice serious medicine, focusing on the sick and weeding out habitual pot smokers simply looking for protection from arrest. Marijuana remains a remarkably safe substance, the pot docs say, with tremendous therapeutic potential for AIDS wasting, chemotherapy nausea and other grave conditions.

Aside from the pot docs, oncologists and HIV physicians write the bulk of the cannabis recommendations.

Bearman, a 63-year-old family practitioner, sees his share of serious cases every week. Sleeves rolled up, graying walrus mustache arched, he is upbeat and avuncular as the ill and injured hobble in. But he figures it may be years before marijuana is accepted by the medical establishment — and by the criminal justice system.

"There's no doubt," he said, "that this is part of a larger cultural war at play."

A Delicate Dance

Jessica Griffith, a 27-year-old divorced mother of one, waddles into Bearman's office, a metal cane in hand.

She carries a 3-inch stack of medical records detailing her four-year fight against pain. She ruptured two discs in her back trying to lift a box in, of all places, a health food store. Griffith tells the doctor she will soon have surgery to fuse her spine.

Meeting such a patient, someone bearing up under a painful or debilitating condition that could be helped by marijuana, Bearman has a standard response.

"You," he tells them, "are exactly the kind of patient the voters were thinking of when they approved Proposition 215."

Bearman's father, a pharmacist, used to tell stories about marijuana's history as an accepted part of pharmacopoeia. (England's Queen Victoria turned to it for menstrual cramps at the suggestion of the court physician.)

The son was dubious. He spent his career mostly paddling in medicine's mainstream, but over the years he developed an interest in medical marijuana. When he retired three years ago as medical director of the Santa Barbara Regional Health Authority, he opened a one-room office. Word spread and the ill flowed in.

So did a problem.

One of his patients, a 21-year-old named Nathan with a history of migraines, was busted with a tiny stash of pot in April 2001 while camping in Ventura County. Confronted by park rangers, Nathan pulled out his medical marijuana recommendation from Bearman.

They let him walk, but a ranger complained to the Medical Board. The board, which receives some 12,000 complaints a year about physicians and investigates roughly 2,000 of them, decided Bearman was worth a look. They demanded to see the doctor's records on Nathan. Bearman refused, citing patient confidentiality.

A two-year legal battle ensued. Bearman at one point faced a \$1,000-a-day fine. But he prevailed. A state appeals court concluded that the board's subpoena was based on "nothing more than speculations [and] unsupported suspicions."

Free of that legal threat, Bearman went back to his old ways. To cull out the fakes, he requires that patients seeking a medical marijuana referral undergo a detailed screening during their initial phone call. Then Bearman spends about an hour conducting a head-to-toe physical.

"What effect does marijuana have?" Bearman asks Jessica Griffith.

"Sleep," she replies. It also dulls the cascading pain she endures while walking. A few puffs before taking a shower and she can shampoo her hair, Griffith says. "It's not fun."

Bearman tells her about support groups for chronic pain, ergonomically designed chairs and how she can saute marijuana in butter or brew it as a tea.

Each exam is a delicate dance between advice and advocacy of a drug still wholly illegal under U.S. law. Like other cannabis physicians, Bearman does not dispense marijuana. How patients obtain pot is up to them, but he sometimes points them to websites listing cooperatives that distribute the drug.

After Griffith leaves, Bearman has a confession. Behind the cheery exam-room aplomb, he fears a patient could end up in jail. They are, he says, arrested all too often.

"Basically what we have here is a turf war between doctors and the criminal justice system," Bearman says. "They're second-guessing physicians."

Studying Pot's Potential

Dr. Tod Mikuriya churns out medical marijuana recommendations like a factory, more than a dozen on a busy day. And he willingly acknowledges, unlike most of his peers in cannabis consulting, that he does indeed smoke pot, mostly in the morning with his coffee.

But the doctor is no tie-dyed hippie. He was a registered Republican for years before becoming a Libertarian. He looks a good decade younger than his 71 years and dresses nattily. The only giveaway of his specialty: an embroidered logo on his white lab coat showing the snake and staff of Aesculapius, the Greek god of medicine, atop a marijuana leaf. Mikuriya, a psychiatrist, has studied the drug's therapeutic potential since the 1960s, when he directed marijuana research at the National Institute of Mental Health. He has written books on its medical use. Mikuriya's list of more than 100 ills eased by cannabis includes insomnia, premenstrual cramps and stuttering.

Marijuana is so effective and benign, Mikuriya said, that the bar for patient approvals should be far lower than for prescription drugs. Likewise, the role of cannabis consultants is not to perform exhaustive tests, he said, but to determine whether a patient's condition is chronic and could be helped by pot.

In 2000, the Medical Board accused Mikuriya of gross negligence, unprofessional conduct and incompetence in recommending marijuana to 16 patients. The core of the case: that Mikuriya failed to conduct proper physical exams and keep adequate records.

Last March, the board hit Mikuriya with five years of professional probation and a \$75,000 fine. He appealed and has continued to practice pot medicine — with a few changed habits and under the supervision of a state-appointed monitor.

He no longer sees patients at his home in the East Bay hills, instead leasing a small suite above a Trader Joe's market in El Cerrito, on the eastern edge of San Francisco Bay. A staff of three maintains records and prepares patients for exams by taking blood pressure and other vitals.

A typical day features a parade of ailing patients, many of them already self-medicating with marijuana.

Jerry Smith, a burly 59-year-old drywall contractor with a salt-and-pepper beard and crew cut, drove five hours from near the Oregon border to get his approval to smoke pot renewed. He's got a busted-up shoulder and diverticulitis. Smith raised his shirt to expose a gaping hole in his gut, the product of a botched procedure.

"They just about killed me up in Yreka," he laments. "Those people are in the horse-and-buggy days. Thank goodness there's someone like you."

Mikuriya smiles.

"Thank goodness," he gently corrects Smith, "for cannabis."

'It's Dr. Feelgood'

Ultimately, the struggle over the pot docs comes down to one fundamental question: Are they good gatekeepers for an inarguably controversial medication?

If they don't dig deep to diagnose a patient's ills, "there isn't good medicine going on," said the Medical Board's Joan Jerzak. "It's just sales of a particular prescription. It's Dr. Feelgood."

Consider how the board handled the case of William S. Eidelman, M.D. In 2000 and 2001, undercover investigators infiltrated the Santa Monica office of Eidelman, a longtime practitioner of alternative medicine.

Each claimed a fictitious illness, according to case records. Back pain. Insomnia. One told Eidelman that smoking marijuana simply made him feel better about life. All got the green light for pot.

In May 2002, the board suspended Eidelman's license, saying he failed to give hands-on physicals, obtain medical histories, order tests. The physician claimed entrapment.

"I was given punishment normally reserved for doctors who rape a patient or botch a half-dozen operations," Eidelman said. "Even if I did go over the line in one or two cases, that isn't what my practice is all about. I treat people who are really sick." In the end, the board hit him with a \$65,000 fine and five years' probation.

Doctors like Eidelman are not recommending pot for patients with terminal cancer and end-stage AIDS, Jerzak said. "People with those sorts of serious illnesses are going to obtain the recommendations with no complaint."

The board's intense scrutiny of the cannabis doctors has drawn fire from the state's medical establishment. Jack Lewin, chief executive of the California Medical Assn., said the state should concentrate on doctors who truly endanger lives. Pursuing pot docs, Lewin said, "seems like a witch hunt."

After wrangling with the California Medical Assn., the Medical Board in May spelled out a softened approach. If physicians follow "accepted medical standards, they can avoid being investigated."

'What Is the Problem?'

If the board has a thorn in its side, his name is Dr. Frank Lucido. He wears a ponytail and a beard, is a longtime peace activist and practices in Berkeley. He also is a sort of Marcus Welby of the left, seeing some of the same patients for a quarter of a century. Just one in five has anything to do with marijuana.

The state investigated him a few years ago, but dropped the case. Ever since, Lucido has religiously attended board meetings, urging regulators to lay off pot practitioners. "If patients aren't being harmed," Lucido said, "what is the problem?"

The doctor believes it's unfair to hold cannabis consultants to an A standard of work when "everyone else is a C." He laughs at critics who say such doctors — paid \$200 or more by a medical marijuana patient, usually in cash or check — are in it for the money. Lucido said it's a rare year when he nets \$90,000.

His office manager, Damian Disterdick, said she turns away a quarter of the callers seeking a recommendation.

"Most get really angry," she said. "I tell them to read what Proposition 215 says. This is for the seriously ill, not someone who wants to be legal."

Nicholas Feldman is one of the former. He is 28 and has cerebral palsy. Spastic paralysis knots his body. Straps hold pipe-thin legs to a wheelchair and bind his waist, forearms and biceps. His shoes are laced together to restrain flailing feet.

Despite his disability, Feldman lives life in full. He works with the disabled in San Francisco, helping them find independent-living situations. At home, Feldman takes gulps of pot from a vaporizer — particularly right before dinner.

"Marijuana has made my life easier over the years," he says, jaw clenched, the words rolling out slowly.

In a bright examination room, Lucido listens intently to Feldman's heart and lungs. He feels his abdomen.

Later, turning his wheelchair, Feldman has a few parting words.

"They're not doing any crime," he says. "They're being doctors. They're helping people. They represent what medicine should be all about — compassion for people. Not simply prescribing a pill."

Cannabis chronology

Physicians turned to marijuana long before California voters legalized it for medicinal use in 1996.

2,700 B.C.: Accounts of medicinal cannabis recorded during reign of the Chinese Emperor Chen Nung.

1840s: Irish physician William B. O'Shaughnessy introduces cannabis to Western medicine after witnessing its use in Calcutta.

1920s: Several U.S. pharmaceutical companies continue marketing cannabis medicines; textbooks describe it as a painkiller and sedative.

1941: Cannabis removed from U.S. list of approved drugs after Federal Bureau of Narcotics rails against "reefer madness" during the 1930s.

1970: U.S. declares marijuana an illegal drug.

1992: Medical marijuana approved in a few California cities, fueled by anecdotal accounts and early research suggesting pot's promise for the ill.

1996: Proposition 215 approved, legalizing medical marijuana for the seriously ill. Nine other states adopt similar laws, most recently Montana in November 2004.

Sources: Medical Board of California, Society of Cannabis Clinicians, U.S. Drug Enforcement Administration, LA Times staff reports.

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