

The Unprecedented Punishment of Dr. Frankel

Although his transgressions had nothing to do with Cannabis,
the medical board denied him the right to approve its use by patients.
And for using it himself, they tried to revoke his license permanently.

By Fred Gardner

On July 25, 2011, after an imposed hiatus of 15 months, Allan Frankel, MD, resumed seeing patients and authorizing Cannabis use as he saw fit.

You might say, “All’s well that ends well.” On the other hand, “Lost time is not found again.”

The Medical Board of California had suspended Frankel’s license for reasons unrelated to Cannabis —and then sought to revoke it permanently because he used Cannabis himself.

A Conventional Career

Frankel is 60, barrel-chested, curly-haired, and jolly —amazingly so, given that his parents were Holocaust survivors. He was a star fullback in high school and there’s something fullback-like about the way he drives straight ahead in pursuit of his goals. He is divorced, with three grown children —two who are practicing MDs and one with a business degree.

In 34 years of practice Frankel never had a problem with the medical board.

Most of Frankel’s career was spent practicing internal medicine. “I had a hotsy-totsy office on Wilshire Boulevard in Santa Monica,” he says, and an affiliation with UCLA. In 34 years of practice Frankel never had a problem with the medical board. He tried marijuana on rare social occasions, and knew nothing about its medical aspect. For AIDS and cancer patients who said they’d been using marijuana beneficially, he issued letters of approval.

In 2001 Frankel underwent disk surgery for intractable back pain. In 2002 a viral infection of the heart almost killed him (he was given a prognosis of one year to live) and left him “in general, permanent discomfort.”

Frankel was disabled —bedridden for most of the ensuing three years. Relief finally came when some of the patients for whom he had written recommendations urged him to try cannabis.

“My patients did a reverse intervention on me,” Frankel says.

“My patients did a reverse intervention on me,” Frankel says. “Cannabis helped me get better. A part of me thinks it saved my life.”

During his prolonged recovery, Frankel designed software that is still used to run the Bowyer Cancer Center at UCLA Hospital. He describes it as “a specialized medical language that enables them to build very complex what-if scenarios involving drug interactions, allergies, insurance, all the factors that have to be taken into account in a treatment plan.”

In March, 2006, Frankel opened a new office in Marina Del Rey dedicated to cannabis consultations. “I really didn’t know anything about cannabis except what I learned from my patients,” he reflects.

Frankel joined the Society of Cannabis Clinicians that spring. (The first meeting he attended was the last chaired by founder Tod Mikuriya.) He avidly read the relevant medical and scientific literature, attended conferences, and did everything he could to educate himself about the body’s cannabinoid signaling system. He began tracking strain differences and encouraged patients

to find the type of cannabis and the delivery system best suited to alleviating their symptoms. In other words, Allan Frankel was serious about mastering his new specialty.

Frankel says, “It wasn’t long before I realized that my patients were lying about how much they used —as if they feared my disapproval. Finally, I would tell them, ‘I use an ounce a month, how much do you really use?’ And then they would level with me —about dosage, about everything.”

In June 2007 two agents from the medical board’s enforcement division “walked into the office and announced that I was under investigation,” says Frankel. “They showed their badges in front of all the patients —it was terrible.”

A vindictive ex had filed a complaint against him. In addition to several false charges, he says, was a true one. As he would eventually acknowledge when he agreed to accept probation from the medical board, he had prescribed Vicodin for himself — “less than one pill a day on average”— while recovering from back surgery.

Although the self-prescribing had occurred years before Frankel become a cannabis specialist, the terms of his probation included a punishment the medical board’s lawyers had recently devised: “Respondent shall not issue an oral or written recommendation or approval to a patient or a patient’s primary caregiver for the possession or cultivation of marijuana for the personal medical purposes of the patient.” This special anathema was to last for one year.

Colleagues in the SCC urged Frankel not to accept this restriction on his right to practice (and, potentially, on any doctor’s right to practice).

Frankel says he accepted the restriction because he didn’t have money to fight it, having just put two kids through med school. And he felt truly foolish and embarrassed about his self-prescribing. Cannabis had politicized him and he had become self-critical, in retrospect. When he accepted the board’s “stipulated settlement” offer, it was partly by way of penance for actions he considered irresponsible.

Probation Plus

As of April 22, 2010, Allan Frankel, MD, stopped issuing approvals for patients to use cannabis. He employed another doctor to examine patients at the Greenbridge office, while making himself available for informal conversations. (How many doctors are so authentically interested in their patients’ experience that they would consult without remuneration? Frankel had become increasingly convinced and wanted to share the message that tincture applied under the tongue is the ideal delivery system for most medical cannabis users. He also wanted patients to know about the significance of CBD, and to hear feedback from patients who were trying CBD-rich products.)

Frankel complied with the terms of his probation expeditiously. These included:

- taking courses in “prescribing practices,” “medical record keeping,” “ethics,” and “professional boundaries;”
- seeing a psychotherapist on a regular basis;
- undergoing a psychiatric evaluation by a psychiatrist chosen by the board;
- abstaining totally from alcohol (which had never been a problem for him); and

- submitting to random “biological fluid testing.”

Note that the disciplinary order Frankel agreed to abide by did not specifically rule out his using Cannabis as medicine (which the board knew he was doing).

Beverly Hills Shrink

The psychiatrist Frankel chose to see on a regular basis was Robert Gerner, MD, of Los Angeles.

The psychiatrist the board chose to do a one-time evaluation was Daniel Fast, MD, of Beverly Hills. “I actually knew him slightly when I was at UCLA,” says Frankel of Fast. “Like, I’d nod to him in the cafeteria. He was usually sitting by himself. I wondered if he had any friends.”

Frankel made an appointment to see Fast on April 28, 2010, a few weeks into his forced lay-off. Based on their 63-minute conversation, Fast sent a written report to the med board concluding that Frankel was unfit to practice medicine safely because of impaired cognitive function and “chronic marijuana usage.”

Following the psych eval by Fast, the med board notified Frankel that his license would be *permanently* revoked, pending a hearing at which he could defend himself. (“Probation” means the doctor’s license is revoked, but the revocation is “suspended”

for a certain amount of time, during which the doctor can see patients.)

The probation requirement that Frankel had allegedly violated reads: “Respondent shall abstain completely from the personal use or possession of controlled substances... and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide illness or condition.”

Frankel was using cannabis with the approval of Christine Paoletti, MD. He was also using Cymbalta and Dalmane prescribed by Dr. Gerner for anxiety and insomnia. Frankel says he was first prescribed Dalmane when he was in his twenties, to quell “recurrent nightmares I’d been having since I was a kid in which the Nazis were coming to get me.”

Frankel’s lawyer, John Fleer, who has been handling cases before the med board for more than 20 years, said the Accusation against Frankel “desperately flawed.” The board was violating its own probation order, Fleer noted, by disregarding Paoletti’s approval of Frankel’s cannabis use.

The Hearing

The hearing to determine whether Allan Frankel was fit to practice medicine

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Dr. Fast Diagnoses Dr. Frankel

The medical board’s expert witness, Daniel Fast, conferred several diagnoses on Allan Frankel after a 63-minute “psych eval” session in April, 2010. Here are some informative gems from Dr. Fast’s written report:

- “Dr. Frankel was born in New York City and moved to Redwood City, CA at age 7. He was captain of the football team and valedictorian in high school but never had sex. His father, who had lost a son in the concentrations camps, was never happy...”
- “Of these relationships, Dr. Frankel said ‘I’m attracted to borderline women’ and that it was ‘sloppy and wrong’ [to prescribe for his girlfriend and her daughter] but he was ‘in love’ and ‘will never do it again.’”
- “He has a good relationship with his sister, several old friends, his three adult children and a 16-month old grandson.”
- “He loves his work as CEO of Green Bridge Medical Services. 25% of his referrals are from doctors in the community. He loves to help patients, especially those with MS, HIV and cancer. He is active and excited about his new ventures —testing, developing tinctures [solutions of active cannabis] and medical education about cannabis. He currently acts as a ‘greeter’ in his business and has hired another physician to see patients.”
- “He reports that ‘life is good, even now.’ The worst is the ‘humiliation’ by the Medical Board which he believes is ‘political.’ He has no issue with the Medical Board restrictions, i.e. to prescribe no scheduled medication or to give marijuana recommendations... He accepts being unable to enjoy wine and won’t go back to doing what he was doing.”
- “Affective status: Mood is cheerful, optimistic and confident, inappropriate in this context.”
- There is no evidence of alterations of reality testing —no hallucinations, illusions or delusions. There is flight of ideas... There is preoccupation with the medical uses of marijuana.”

“I believe that Dr. Frankel suffers from a variety of psychiatric conditions which significantly interfere with his ability to process information, form judgments or relate a coherent history.”

Diagnosis based upon DSM-V Criteria:

- *Axis I*
- 304.30 Cannabis Dependence
- 305.20 Cannabis Abuse
- 292.89 Cannabis Intoxication
- Rule out underlying 296.89 Bipolar II Disorder or 301.13 Cyclothymic Disorder, Hypomanic.
- Rule out 314.9 Attention-Deficit/Hyperactivity Disorder Not Otherwise Specified.
- *Axis II*
- 301.9 Personality Disorder Not Otherwise Specified with Antisocial, Histrionic and Narcissistic features.

Frankel's Punishment from previous page

was held in Los Angeles, December 27-30, 2010, before Administrative Law Judge Susan Formaker. The prosecution was handled by Deputy Attorney General Edward Kim, whose case rested on Daniel Fast's expertise.

Fast, a small man in his 50s, has an orthodox resume and is a member of several psychiatric associations. He participated in "National Depression Screen Day," an Eli Lilly scam intended to boost the number of Americans getting Prozac prescriptions.

On direct examination, Fast testified that he had done eight previous psych evals for the med board. He said he always asks doctors to come 15 minutes early to fill out paperwork, and that most arrive 15 minutes earlier than requested. But Allan Frankel had arrived at his office seven minutes late. And he was not wearing a coat and tie, he was wearing slacks and a sports shirt!

[Rosie asks, "Who wears a coat and tie in LA?" And, "Those doctors who came a half hour early —how guilty were their consciences?"]

Frankel, according to Fast, had been cavalier about the medical board's charges against him. He believed the prosecution to be "a witch hunt" that was "politically motivated."

Yes, Fast testified, Frankel was contrite about the self-prescribing episode and some bad choices he'd made involving women; but not *sufficiently* contrite. He saw it as a sign of mental illness that Allan Frankel, facing the loss of his medical license, remained his brash and breezy self.

Fast testified that he routinely prescribed pharmaceutical-industry synthetics but had never approved marijuana use for depression, anxiety, or insomnia.

Fast, the expert, testified that he routinely prescribed pharmaceutical-industry synthetics but had never himself authorized a patient to use marijuana for depression, anxiety, or insomnia.

The psychoactive effects of marijuana, he stated on the stand, last for 14 days. A supporter of Frankel's in the audience said in a stage-whisper, "Where can we get some of that stuff?"

A Fast and Complete Retreat

On cross-examination Fast would meekly retract all the cannabis-related diagnoses he had made on direct.

John Fleer began by calling Fast's attention to the fact that the Diagnostic and Statistical Manual (the DSM, the so-called "Bible of the American Psychiatric Association") requires doctors to choose two of the three conditions that he had pinned on Frankel.

Fast said, "Oh, you're right. Well, I'll choose 'Dependence' and 'Abuse.'"

Fleer then had Fast read aloud from the DSM all the symptoms and traits that characterize "Cannabis Dependence" and "Cannabis Abuse." Fast then acknowledged that Frankel did not manifest *any of them!* According to Tyler Strause, "Fast was kind of puny to begin with and he seemed to be withering away on the stand. He wound up saying, 'I was incorrect. I'm sorry.'"

Fleer matter-of-factly termed Fast's inaccurate diagnoses "irresponsible" and moved on to the "Not Otherwise Specified" personality disorder. Fast testified that he had based his assessment on traits he observed in Frankel such as "impaired judgment," "flight of ideas," "poor impulse control," and "lack of concentration."

Fast had been consulting some notes while testifying. Fleer asked about them. Fast said they were notes he had made during his 63 minutes with Frankel. Fleer asked for and got copies. (The notes had not been provided to the defense on "discovery," the legally required pre-trial sharing of potential evidence.) Fleer then led Fast through a review of the notes, which revealed that Frankel had proceeded from topic to topic in a totally logical order.

How often, Fleer asked, did people in the general population exhibit aspects of an unspecified personality disorder? This brought the stunning concession that Allan Frankel did not exhibit more signs of an unspecified personality disorder than most people Daniel Fast had encountered in his lifetime!

"I couldn't believe what I was hearing," says Fleer. "It was unusual, to say the least."

Frankel Defended

The doctor who approved Allan Frankel's cannabis use, Christine Paoletti, MD, is a Santa Monica obstetrician whose practice has expanded to include cannabis consultations. Her testimony was "considered and deliberate," according to Fleer. She had recommended that Frankel seek out and use CBD-rich cannabis, which is reported to be more effective against anxiety

than high-THC strains. The judge picked up on this and Dr. Paoletti got to explain how cannabidiol had been bred out of Cannabis grown for maximum psychoactivity, but that CBD-rich strains were now becoming available for medical users.

According to Paoletti, the judge took over her cross-examination from Deputy AG Kim because "he wasn't cutting to the chase and she got frustrated. She knew very little but asked good questions. She asked why I hadn't asked for a note from his psychiatrist [confirming his diagnosis]. I had asked, but he hadn't brought it. But he did have his primary care records documenting Insomnia and Anxiety. And that was substantial enough to justify the recommendation."

Paoletti also noted that she had attended meetings of the Society of Cannabis Clinicians at which Frankel took an active part "and was always very cogent."

Paoletti was asked by Formaker whether she had questioned Frankel about his past drug dependence. She said, "No, he volunteered his history. I asked him to elaborate on certain aspects of it. When he was recovering from his cardiomyopathy he became concerned about addiction to Vicodin and went through a program."

Paoletti considers Frankel's use of cannabis as an alternative to Vicodin "a classic example of harm reduction." She said, "I have several patients who have been able to get off their pain medications thanks to Cannabis."

Formaker asked Paoletti if she had drug-tested Frankel. Paoletti said no, but she was aware that Frankel was being drug-tested as a condition of his probation. "My job," Paoletti informed the judge, "was to determine 'Did he have a medical condition that merits the use of Cannabis?' And 'Is he stable?'"

Paoletti answered her own questions, "'Yes' and 'yes.'"

Two other MDs testified that Frankel was fit to practice medicine: Robert Gerner, the psychiatrist who was seeing him on a monthly basis (as per the terms of his probation), and Glenn Gorletski, an internal medicine specialist who praised Frankel's character and skills as a physician.

Gerner said that Frankel was coping very well while on probation. "His treatment regimen is working," he said. "My advice is: 'don't change anything.'"

Frankel himself took the stand to state that he was aware of his prior transgressions, and remorseful. His goal was simply to show the judge that he could think and speak coherently. He did not expound on medical cannabis. Fleer was concerned that his expertise could be mistaken for a preoccupation.

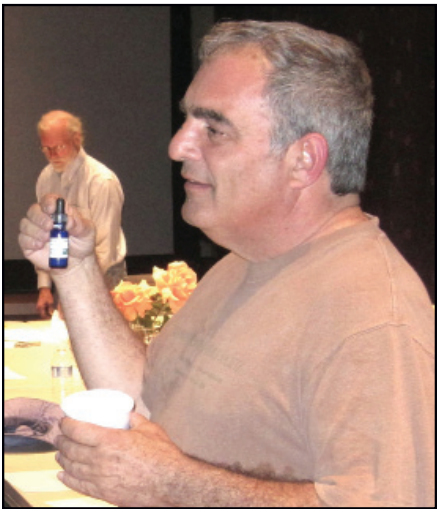
Kim's cross-examination was "lame," according to Tyler Strause. "I was amazed how much of his time Kim devoted to flipping through his notes and papers trying to find some point with which he could contradict Dr. Frankel. He would flip through his papers for 30 seconds, then ask a three-second question. Over and over."

Kim's closing argument, says Fleer, revealed an assumption that Frankel had been "high" when he went for his appointment with Fast and will be "high" when treating patients, if allowed to practice again. Kim repeatedly reprised Fast's complaint that Frankel had been seven minutes late and casually dressed.

"Kim got very worked up," says Fleer, "trying to say that if you don't wear a coat and tie, it means you're high." (Move over, Johnnie Cochran.)

"He really couldn't accept the idea that Dr. Frankel could use marijuana and see patients. He had to be 'high' and therefore dysfunctional."

In both his written report to the medical board and his direct testimony before ALJ Formaker, Daniel Fast had lingered on the



ALLAN FRANKEL, MD, discussed cases of patients using CBD-rich tinctures at the spring Society of Cannabis Clinicians meeting. His findings and observations are reported on page 15. As Dr. Frankel undertook his cutting-edge investigation of CBD-rich Cannabis —which thousands of Californians will use for medical purposes— the state medical board was denying him the right to practice.

transgressions involving women and prescription drugs that got Allan Frankel in trouble initially. But Frankel hadn't skirted any med board guidelines since launching his cannabis-oriented practice in 2006, and he wasn't accused of doing so. Fast thought Frankel showed insufficient remorse over things that happened before he became a medical cannabis user and proponent.

Bittersweet Victory

Administrative Law Judge Susan Formaker issued her 42-page proposed decision "In the Matter of the Accusation and Petition to Revoke Probation Against Allan I. Frankel, MD" in early March.

Daniel Fast's testimony had been "substantially discredited on cross-examination," she advised the medical board.

"In view of Dr. Fast's problematic perceptions," wrote Formaker, "Dr. Fast's admittedly 'inaccurate' cannabis-related diagnoses and GAF scores assigned to Respondent, and the insufficiently supported diagnosis of Personality Disorder Not Otherwise Specified, Dr. Fast's conclusions regarding respondent's inability to practice medicine safely cannot be considered convincing."

Formaker went on to weigh "the question of whether a physician may violate a probationary order issued by the Board solely through the use of medical marijuana authorized pursuant to the Compassionate Use Act." Her answer was yes, "technically."

But in this case, she noted, when Frankel and the Board entered into a stipulated settlement in March 2010, he agreed to abide by a disciplinary order that did not specifically rule out his using medical cannabis (which the board knew he was using, because he was being drug tested).

Formaker opined: "Fundamental principles of due process require... before the Petition to Revoke Probation was filed, Respondent should have been notified... that his use of medical cannabis, in and of itself, constituted a violation... of the Disciplinary Order."

This is hardly good news for pro-cannabis MDs (and others). All it means is that in the future, when certain doctors get offered a probation deal, the board will remind them that they are relinquishing the right to use cannabis as medicine under California law.

John Fleer commented: "The decision does give guidance to how this judge thinks the medical board could better prohibit medical cannabis use by a physician on probation. But I think one could successfully challenge such an attempt as improperly interfering with medical decision-

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HUMAN SMOKE: Allan Frankel is the second member of the Society of Cannabis Clinicians (1) whose parents were Holocaust survivors, (2) who practiced medicine for decades without running afoul of the medical board, (3) who got investigated and charged soon after becoming a Cannabis specialist, and (4) against whom the board deployed a veteran of Eli Lilly's National Depression Screening Day. The other was Hanya Barth, MD, whose cruel ordeal was reported in O'Shaughnessy's, Spring 2007... Frankel says that the "Nazi dreams," which he hasn't had since he was 30-something, are waking him up again. You don't have to be a psychiatrist to figure out why.

Wake Up and Smell the Terpenes

Some cannabis aficionados have jump-started their research by vaporizing terpenes individually and in combination with herbal cannabis. They advise that pinene is alerting, limonene “sunshiney” and myrcene sedating.

Whereas GW Pharmaceuticals’ designer extracts will have to be “unitary formulations” (meaning the 200th batch must be virtually identical to the 20th batch), non-corporate producers of cannabis-based medicines are not so tightly constrained. In the period ahead, we anticipate cannabis-compound combos customized for various conditions. They will inevitably be dubbed “cannabis cocktails.”

We expect interest in terpenes to equal the interest building around CBD. Obviously, it will be a boon —and a technical challenge— to the labs.

Doctors will want to knowledgeably discuss with patients which terpenoids might modulate the effects of the cannabinoids, and how.

Patients with every type of medical problem will want to use cannabis with the most useful terpenes.

And people who use cannabis for euphoria and/or disinhibition (some call them “stoners”) will also want to figure out the effects of terpenes. CBD is of little interest to stoners because it counters psychoactivity. But some of the terpenes are known to modulate the effects of THC, and everyone will want to figure out for themselves whether limonene really is “sunshine-y” and myrcene really leads to “couch-lock.”

The vocabulary of cannabis connoisseurs will be the envy of the wine snobs. “I detect beta-caryophyllene and linalool with overtones of pinene...”



LIMONENE, β -CARYOPHYLLENE (LARGE BOTTLES) AND MYRCENE (small bottle) are among the terpenoids produced by Sigma-Aldrich and other chemical companies for use in food and flavorings. They are generally recognized as safe for human consumption. Note the kosher seal.

Frankel’s Punishment from page 38



ALLAN FRANKEL AND CHRISTINE PAOLETTI are sharing office space in Santa Monica. His fight with the medical board politicized him, he says, and he has been devising a “single-payer” insurance plan for medical cannabis users.

making of the recommending physician.”

Frankel said about Formaker’s decision: “Even if nothing else good comes from my victory, it forces the medical board to come out and clearly state to any future docs that giving up cannabis will be part of their settlement; they won’t be able to set the doctors up. Had the Medical Board in fact told me that this were to be a restriction, I would have never settled... Also, the ‘negative’ is of great value in my opinion. Had I lost, things would be worse for everyone.”

One More Hoop to Jump Through

When the administrative law judge ruled in his favor, Frankel expected to resume practicing medicine on April 23, 2011 —a year and a day after he had been forced to stop. Some patients who were due for their annual renewal check-ups made appointments to see him that day.

But the board soon notified him that before he could see patients, he would have to be cleared by yet another psychiatrist. Given Fast’s ineptitude, the board reasoned, Frankel had not yet undergone a proper psych eval.

“Dr. Frankel will not comply,” Fler notified the board April 29, adding that he would file a writ in Superior Court to impel them to let Frankel resume practicing medicine without further delay and without any “marijuana restriction.”

Fler also sent Daniel Fast the required 90-day notice that Dr. Frankel was filing a malpractice suit against him.

“By not understanding the diagnoses he was making,” Fler says, “Dr. Fast failed to meet the appropriate standard of care. As a result, Dr. Frankel couldn’t practice and lost income. He had to pay the cost of defending himself. And he was put through considerable emotional stress.”

Frankel wonders if the medical board somehow signaled Fast that they wanted him to produce a negative evaluation. Fler doubts they would be that crass; but, he says,

“This lawsuit is going to have discovery and I’m going to pursue all the communications that Dr. Fast had with the board.”

Frankel doesn’t know if the legal action against their discredited expert caused a change in attitude, but at a July 12 meeting with his probation officer and a supervisor from the enforcement division, he says he was “treated respectfully for the first time ever.”

Frankel consented to yet another psych eval, but fearing a repeat encounter with an expert who knew nothing about cannabis, he requested the right to record his interchange with the board’s latest psychiatrist of choice, Nathan Lavid, MD.

Frankel was assured that he could tape the session and, assuming he passed, immediately resume seeing patients and issuing cannabis recommendations. Something said by the supervisor left him with the impression that the board did not intend to use Fast as an expert in the future.

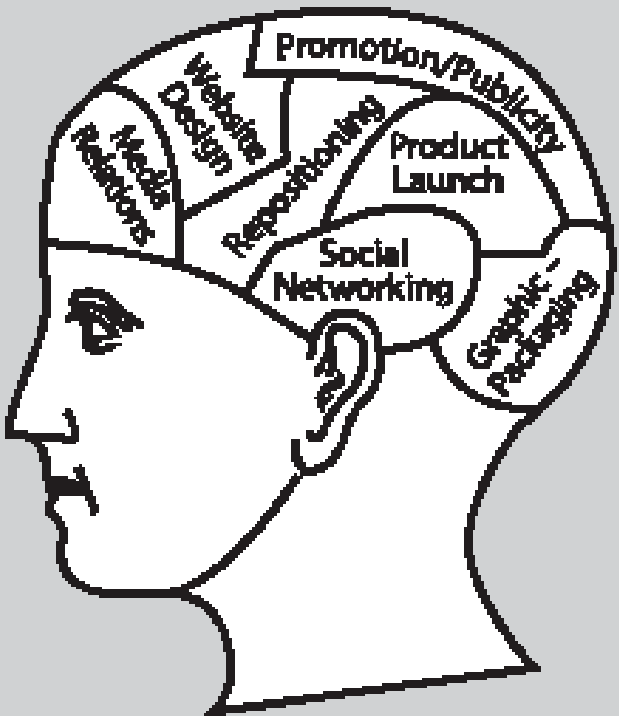
On July 15, Frankel went to see Dr. Lavid. He arrived on time, but did not wear a suit and tie. They talked for more than four hours.

Ten days later Frankel received an email from his probation officer, Kevin Morris: “I am happy to inform you that you passed the psychiatric evaluation and can resume the practice of medicine immediately. Please see the formal letter attached, which you will be receiving in the mail shortly. Have a good day.”

Frankel did indeed resume seeing patients immediately, and had a good day. He is sharing office space with Dr. Paoletti in Santa Monica, and can be reached at allan@greenbridgedmed.com.

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Tested On:		April 20, 2011	
Sum of Cannabinoids	16.91 %	Sum of Terpenes	24.66 mg/g
Δ ⁹ -THC Max:	16.63 %	Myrcene	10.67 mg/g
Δ ⁹ -THCA	17.81 %	β-Caryophyllene	5.78 mg/g
Δ ⁹ -THC	0.99 %	α-Pinene	3.80 mg/g
CBD Max:	0.28 %	β-Pinene	1.20 mg/g
CBD	0.05 %	Linalool	1.20 mg/g
CBN	0.23 %	Terpinolene	1.04 mg/g
Microbiological Screen	99.99 %	(+)-Limonene	0.98 mg/g
Pesticides Screen	PASS		

“After taking several readings, I’ve decided that my mind’s still fairly sound.”
—Willie Nelson