

# The Palm Beach Post

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## CRIME

### Doctor says sober home kingpin 'conned' him. Prosecutors say he defrauded health insurers of \$30M.

*Mark Agresti says he became a sober home medical director because he wanted to help people in need. Federal prosecutors say he helped Kenneth Bailyson bill insurers for \$100 million in urine tests.*

**Jane Musgrave** Palm Beach Post

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FORT LAUDERDALE — When Dr. Mark Agresti agreed to serve as medical director of Good Life Sober Living in West Palm Beach, it was a way to help people struggling with drug addiction deal with the demons that were ruining their lives.

“He’s a psychiatrist with a passion for substance-abuse treatment,” defense attorney Greg Rosenfeld told a federal jury on Tuesday. “He devoted his career to helping people who struggle with addiction.”

Instead, Rosenfeld claimed, the respected 59-year-old Palm Beach physician unwittingly found himself entangled in a \$31.3 million health care fraud scheme orchestrated by notorious sober home owner Kenneth Bailyson, who in November pleaded guilty to conspiracy to commit health care fraud.

**Guilty plea:** Sober home owner Kenneth Bailyson pleads guilty in \$31.3 million health care fraud scheme

**Federal charges:** Feds charge Wellington woman linked to sober home kingpin in health insurance fraud case

**'Fake surgeries': 'Spine crime':** Patients say Lake Worth-area back doctor did 'fake surgeries,' left them in pain

“Bailyson conned Dr. Agresti into thinking he was going to run a legitimate business, and Dr. Agresti signed a contract in good faith,” Rosenfeld said. “He conned Dr. Agresti just like

he conned everyone else in his life, and like he conned the insurance companies."

Assistant U.S. Attorney James Hayes scoffed at Agresti's claims of innocence and ignorance. There's a good reason Agresti is charged with one count of conspiracy to commit wire and health care fraud and 11 counts of health care fraud, he said of the charges that could send the physician to prison for more than 20 years.

"This is a case about lying, fraud and using patients to make money, and about a doctor who made it all happen," Hayes said during opening statements in what is expected to be a two-week trial.

## **'Urine testing was the cash cow'**

If Agresti hadn't ordered dozens of unnecessary urine tests for people struggling with addiction who lived in the rundown apartment complex Bailynson owned on Georgia Avenue, insurance companies couldn't have been billed a staggering \$100 million from 2011 until the operation was shut down by FBI agents in 2015, Hayes said.

Since insurance companies will only pay for tests ordered by a doctor, Agresti was key to the scam, he said.

"This is a simple case," Hayes said. "He allowed patients to be used to make money. Urine testing was the cash cow."

Each of the scores of people trying to beat their addictions were forced to be tested at least three times a week. Agresti ordered expensive urine screens, telling labs to look for myriad drugs that in some cases weren't even addictive, Hayes said.

The massive number of tests Agresti ordered overwhelmed the labs. Often, Agresti ordered new tests before receiving the results of previous ones, he said. That belies his claims that the tests were being used to guide treatment, he said.

But, Rosenfeld countered, this was in the early stages of the opioid epidemic that spread throughout South Florida and the nation.

### **Special investigation:** How Florida ignited the heroin epidemic

Doctors were struggling to find ways to deal with the burgeoning numbers of people who had become hopelessly addicted to oxycodone and other drugs. Hundreds were dying.

“There was no appropriate treatment for substance abuse,” he said. “The guidelines were all over the place.”

Agresti believed the more testing, the better. He embraced a “step-down protocol” for testing, Rosenfeld said.

## **'More data is better than less data'**

During the first four months of a year-long treatment regimen, patients would be tested three times a week, with one additional random test. During the next four months, each patient would receive two tests a week, with one random test, and eventually one test a week.

“His belief was you have to err on the side of caution,” Rosenfeld said. “More data is better than less data.”

The stakes were high, he said. If a patient died because a doctor failed to order tests that showed he or she was continuing to use drugs, the physician could be sued for malpractice. Yet Agresti faces criminal charges because he ordered too many tests.

“Doctors are in a lose-lose situation,” Rosenfeld said.

Further, he said, it was Bailynson who was the big winner in the scheme. Bailynson, a certified public accountant from New Jersey who received the payments from the insurance companies, pocketed millions.

Agresti in contrast had a contract. He was initially paid \$1,750 a month. His monthly paycheck eventually grew to \$9,000.

Hayes, who claimed Agresti made \$18,000 a month, acknowledged that Bailynson grabbed the most cash.

But, he said, Bailynson couldn't have made any money without Agresti's help. “Without this defendant, this crime couldn't have happened,” Hayes said.

Bailynson was expected to testify late Tuesday afternoon.

In addition to hearing from Bailynson, the trial will feature testimony from others who were convicted of their role in the scheme as well as other players in the county's once-bustling illicit sober home industry.

Rosenfeld asked jurors to weigh the testimony carefully. All are testifying against Agresti in hopes they will be rewarded by receiving lighter sentences, he said.

“All have something that will benefit them, and all have new stories that came out after they got these great deals,” he said.

*[jmusgrave@pbpost.com](mailto:jmusgrave@pbpost.com)*