



Fugitive no more: This is a photo of Dr. Mark Weinberger provided by investigators shortly after his capture in Europe. — POST-TRIBUNE FILE PHOTO

‘Nose doctor’ plea calls for four years

Merrillville surgeon captured in Italy would admit to fraud

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Former fugitive and Merrillville doctor Mark Weinberger would spend four years in prison — two less than he was on the run for — under a plea agreement filed Monday in his federal case.

Weinberger will plead guilty to all 22 counts of health-care fraud he was originally charged with in 2006, according to the agreement, filed in U.S. District Court in Hammond.

In exchange, he would serve 48 months in prison, according to the agreement. Each count carries a maximum of 10 years in prison.

Normally in plea agreements, U.S. prosecutors will recommend a certain sentencing to the federal judge, but the judge has the final say and could opt to sentence a defendant to something else.

However, this agreement stipulates that, if U.S. District Judge Philip Simon accepts it, he would be bound to sentence Weinberger to four years.

The agreement also says Weinberger would pay restitution to the health insurance companies for work that he billed them for but never actually performed. He would also pay the 22 patients listed in the federal indictment any money

they had to pay to a U.S. trustee who dissolved his medical practice.

Weinberger made the news when patients to his nose, throat and eye medical practice in Merrillville started filing civil suits and complaints against them, saying that he acted as though he performed certain procedures on them when he never had.

The FBI started to investigate him when he fled the country in 2004. A federal indictment finally came down in 2006, but the case didn't go forward until he was captured in December in northern Italy.

Officials found him living in a tent at the base of a mountain and said he cut his neck soon after his arrest. He was later extradited to Indiana last spring and pleaded not guilty to the charges.

Lawsuits pending

Weinberger, who attracted national media attention after his arrest in Italy, also agrees in the plea deal to turn over any profits from books, movies or TV deals based on his life.

His trial was scheduled to start Nov. 9.

In the plea agreement, Weinberger admits he never performed surgeries that he said he did. The indictment said he put patients under anesthesia

but then never performed the scheduled surgeries.

“In fact, I knew that I had not performed those procedures,” the agreement says. “I then caused my office to issue a bill to patients’ insurance companies for those procedures that I knew had not performed.”

Weinberger is facing numerous medical malpractice lawsuits in Lake County from his former patients, including the family of one patient, Phyllis Barnes. Barnes went to Weinberger, who failed to diagnose her with throat cancer because, the family’s attorney Kenneth J. Allen says, he never looked at her throat. Barnes died from the cancer.

Allen, who is also representing numerous other patients, said he was glad to see the federal case moving forward.

“The reality is that Weinberger’s put so many people through so much torture for so long that any news is good news for us,” Allen said.

Barnes’ malpractice lawsuit is scheduled to go to trial at the beginning of 2011, he said. The case could have gone forward even if the criminal trial was not wrapped up, Allen said.

A change of plea hearing has not been scheduled as of Monday evening.