

# United States Senate

WASHINGTON, DC 20510

January 12, 2011

## Via Electronic Transmission

Dr. Tu Tran  
Chief Executive Officer  
Kool Smiles  
1090 Northchase Parkway SE  
Suite 150  
Marietta, GA 30067

Dear Dr. Tran:

We are writing to you regarding allegations of abuse and the fraudulent use of Medicaid tax dollars at Kool Smiles dentistry businesses owned in full or part by NCDR, LLC. The allegations suggest that due to the corporate structure of these dental clinics, unnecessary health care services are being provided to Medicaid patients, thereby grossly overcharging the United States government and compromising patient care.

### Dentistry Ownership and Certifications

Many states prohibit the corporate practice of medicine and require an individual with an ownership interest in a medical facility to be a licensed care provider in the state in which the facility is located. Records indicate that NCDR, LLC., may have a financial interest in Kool Smiles practices. At issue are concerns over who is making decisions at the dentistry.

In order to gain further insight into these matters, please provide the following information by January 27, 2012:

- 1) A detailed description of ownership of all Kool Smiles facilities from January 1, 2010 to present.
  - a. What practices are owned by Dr. David Vieth?
  - b. What practices are owned by Dr. Tu Tran?
  - c. Do any employees of NCDR, LLC. own any Kool Smiles practices? If so, please provide their names.
- 2) Dentistry certifications and names for any person with a partial or full ownership interest in each Kool Smiles businesses.
  - a. For each person with a partial or full ownership interest, the total number of procedures they have performed since January 2010, including subtotals of each type of procedure.

- b. For each person with a partial or full ownership interest, please provide their employment contract with Kool Smiles.
- c. All purchase agreements, professional services agreements, and attachments by and between Kool Smiles and affiliates.

### Patient Abuse and Medicaid Fraud

We have received complaints regarding abusive treatment of patients at Kool Smiles facilities. In order to ensure that all of the Kool Smiles affiliates located across the country are holding up high ethical standards in its patient care and use of Medicaid tax dollars, please provide the following information by January 27, 2012:

- 3) All documents related to production goals set out by Kool Smiles.
- 4) All policies and documents, including emails, regarding any contests or other bonus incentive structure for each dental procedure since January 2010.
- 5) The number of baby root canals and crowns each of your Kool Smiles facilities has performed on all Medicaid and non-Medicaid patients since January 2010.
- 6) Since January 2010, how many patients were given restorative or endodontic care in more than one quadrant in a single visit? For this type of treatment, what percentage is done in single visits?
- 7) All policies, procedures, and documents regarding parental or guardian observation of dental procedures.
- 8) All policies, procedures, and documents regarding the use of the "papoose board" or other restraint devices during dental procedures.
- 9) All policies, training manuals, informational booklets, other classroom materials, and any other related documents provided to dentists or used during the training of any dentists employed by Kool Smiles.
- 10) The amount of revenue by Kool Smiles on Medicaid patients and reimbursement, by clinic, in each year since January 2010. Please specifically include information regarding Medicaid reimbursement information for X-Rays, crowns, and root canals.
- 11) What is the average reimbursement for x-rays per patient per year for the past three years?
- 12) All policies, if any, related to non-retaliation policies.
- 13) All emails and other documents used to promote the existence of the Disclosure Program to employees of Kool Smiles.

If you have any questions, please do not hesitate to contact Erika Smith with Senator Grassley at (202) 224-5225 or Christopher Law with Senator Baucus at (202) 224-4515 .

Sincerely,

  
Charles E. Grassley

Senator

  
Max Baucus

Chairman

cc: The Honorable Kathleen Sebelius  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

cc: The Honorable Daniel R. Levinson  
Inspector General  
U.S. Department of Health and Human Services  
330 Independence Avenue, SW  
Washington, DC 20201

cc: Dr. Donald Berwick, M.D.  
Administrator  
Centers for Medicare and Medicaid Services  
7500 Security Boulevard  
Baltimore, Maryland 21244-1850

cc: David Lowe  
President  
Kool Smiles Acquisition Company

cc: David Lowe  
Chairman  
Friedman, Fleischer, and Lowe