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Via Electronic Delivery (PDF) and Via Hand Delivery

The Honorable Max Baucus
Chairman
Senate Committee on Finance
United States Senate
511 Hart Senate Office Building
Washington, DC 20510-2602

The Honorable Charles E. Grassley
Ranking Member
Senate Committee on Finance
United States Senate
135 Hart Senate Office Building
Washington, DC 20510-1501

Attn: Christopher Law and Erika Smith

Dear Chairman Baucus and Senator Grassley,

I am writing on behalf of Kool Smiles dental clinics, owned by various professional corporations, and their management company, NCDR, LLC (collectively “Kool Smiles”), in response to your letter dated January 12, 2012, which we received on January 18, 2012. Though your letter was addressed to **REDACTED** as CEO of Kool Smiles in Marietta, Georgia, your questions indicate an interest in all Kool Smiles clinics, and we are responding accordingly. We appreciate your offices’ courtesy in extending the response deadline, and in agreeing that we could provide a rolling response so that we can satisfy the Committee’s informational needs in an expeditious manner. We note that most of the information contained in this letter and the attached documents is confidential and proprietary business information. As such, Kool Smiles respectfully requests that the Committee treat our responses and productions as confidential business information and accord them all appropriate protections.

By way of background, Kool Smiles' mission is to provide high quality dental care to underserved children and their parents. This mission was founded on the desire of **REDACTED**, who was himself a Medicaid dental patient as a child, to serve patients who have had little or no access to needed dental services. Kool Smiles, its dentists and staff are dedicated to addressing this important need in a courteous and compassionate manner, while maintaining the highest standards of clinical quality and integrity with respect to patients and federally-funded programs, such as Medicaid, that provide reimbursement to Kool Smiles. We would be glad to discuss at your request our mission and how we accomplish it.

Response to Senate Requests for Information

In the interest of cooperating fully with your inquiry expeditiously and providing information and documents relating to the subjects of interest to you, we are responding now with the information and documents described below. We are in the process of collecting additional information and documents, also described below, to follow our initial responses and productions. We do note that some of the requests listed in the January 12 letter include some broad requests for "all documents" for the time period of January 2010 to the present. As to these requests, we hope to work with your staff on how to satisfy the Committee's informational needs without undue burden on Kool Smiles or delay to the process.

Dentistry Ownership and Certifications

Request No. 1:

A detailed description of ownership of all Kool Smiles facilities from January 1, 2010, to present.

Response to Request No. 1:

As a general matter, there are approximately thirty-five Kool Smiles professional corporations, many of which operate a small number of offices. Each professional corporation is owned by one or more of the following licensed dentists: **REDACTED** ; **REDACTED** ; and/or **REDACTED** .

The professional corporations are as follow:

REDACTED DDS PA (owns three locations in Arkansas)
KS AZ-1, PC (owns Arizona location)
KS AZ-3, PC (owns Arizona location)
KS AZ-2, PC (owns Arizona location)
KS AZ-4, PC (owns Arizona location)
Kool Smiles Dentistry, PC (owns two locations in Connecticut)
Kool Smiles Dentistry-2, P.C. (owns three locations in Connecticut)
Kool Smiles DC, PC (owns location in DC)

Kool Smiles, PC (owns location in Georgia)
Kool Smiles of Chamblee, PC (owns location in Georgia)
Kool Smiles of Smyrna, PC (owns location in Georgia)
Kool Smiles of Lilburn, PC (owns location in Georgia)
Kool Smiles GAFP, PC (owns location in Georgia)
Kool Smiles GAC, PC (owns location in Georgia)
KS GASWA, PC (owns location in Georgia)
KS GAD, PC (owns location in Georgia)
KS GAM, PC (owns location in Georgia)
Kool Smiles INI-2 PC (owns location in Indiana)
Kool Smiles INI-1 PC (owns location in Indiana)
Kool Smiles in Fort Wayne, PC (owns location in Indiana)
Kool Smiles IN-3, PC (owns seven locations in Indiana)
Kool Smiles, PSC (owns four locations in Kentucky)
REDACTED , D.D.S., A Professional Corporation (owns nine locations in Louisiana)
Kool Smiles MAC, PC (owns eight locations in Massachusetts)
REDACTED 2, PC (owns seven locations in Maryland)
REDACTED , PC (owns two locations in Maryland)
KS2 MS PC (owns five locations in Mississippi)
KS2 NM PC (owns location in New Mexico)
Kool Smiles OK, PC (owns location in Oklahoma)
Kool Smiles SC, PC (owns three locations in South Carolina)
KOOL SMILES SC-2, PC (owns six locations in South Carolina)
KS2 TX, PC (owns twenty-nine locations in Texas)
Dentistry of Brownsville, PC (owns fourteen locations in Texas)
Kool Smiles VAN, PC (owns fifteen locations in Virginia)
REDACTED DMD, PC (owns three locations in Washington)

Request No. 1(a):

What practices are owned by **REDACTED** ?

Response to Request No. 1(a):

REDACTED is the whole or partial owner of the following Kool Smiles professional corporations, which operate the following Kool Smiles offices:

Kool Smiles Dentistry, PC (New Britain and New Haven, Connecticut)
Kool Smiles Dentistry-2, P.C. (Waterbury, Bridgeport, and Hartford, Connecticut)
Kool Smiles IN-3, PC (Gary, Evansville, Highland, Terre Haute, Lafayette, East Chicago, and Elkhart,

Indiana)
REDACTED . D.D.S., A Professional Corporation (Metairie, Shreveport (two), Monroe, Baton Rouge, Lake Charles, LaFayette, New Orleans, Gretna, Louisiana)
REDACTED 2, PC (Brooklyn, Baltimore (4), Hagerstown, Salisbury, Maryland)
REDACTED . PC (District Heights and Takoma Park, Maryland)
KOOL SMILES SC-2, PC (Anderson, Orangeburg, Rock Hill, Charleston, Columbia, and Greenville, South Carolina)

Request No. 1(b):

What practices are owned by **REDACTED**?

Response to Request No. 1(b):

REDACTED is the whole or partial owner of the following Kool Smiles professional corporations, which operate the following Kool Smiles offices:

Kool Smiles DC, PC (Washington, DC)
Kool Smiles, PC (Decatur, Georgia)
Kool Smiles of Chamblee, PC (Atlanta, Georgia)
Kools Smiles of Smyrna, PC (Smyrna, Georgia)
Kool Smiles of Lilburn, PC (Lilburn, Georgia)
Kool Smiles GAFP, PC (Forest Park, Georgia)
Kool Smiles GAC, PC (Columbus, Georgia)
KS GASWA, PC (Atlanta, Georgia)
KS GAD, PC (Dalton, Georgia)
KS GAM, PC (Macon, Georgia)
Kool Smiles in Fort Wayne, PC (Fort Wayne, Indiana)
Kool Smiles IN-3, PC (Gary, Evansville, Highland, Terre Haute, Lafayette, East Chicago, and Elkhart, Indiana)
Kool Smiles, PSC (Elizabethtown, Lexington, and Louisville (2), Kentucky)
Kool Smiles MAC, PC (Cambridge, Roxbury, Springfield, Brockton, New Bedford, Chelsea, Fall River, and Holyoke, Massachusetts)
Kool Smiles SC, PC (Sumter, Greenville, and Anderson, South Carolina)
Dentistry of Brownsville, PC (Brownsville, Leon Valley, Mission, McAllen, Waco, Laredo, Eagles Pass, Bryan, Killeen, Houston, San Antonio, Texarkana, Weslaco, and Laredo (2), Texas)
Kool Smiles VAN, PC (Norfolk (2), Danville, Christiansburg, Hampton (2), Richmond (2), Portsmouth, Virginia Beach,

Newport News, Falls Church, Colonial Heights, Fredericksburg,
and Winchester, Virginia)

Request No. 1(c):

Do any employees of NCDR, LLC. [sic] own any Kool Smiles practices? If so, please provide their names.

Response to Request No. 1(c):

There are no employees of NCDR, LLC who own any portion, full or partial interest, of any Kool Smiles PC or individual Kool Smiles offices.

Request No. 2:

Dentistry certifications and names for any person with a partial or full ownership interest in each Kool Smiles businesses [sic].

Response to Request No. 2:

We are interpreting your request for “dentistry certifications” to mean dental licenses. We are in the process of collecting copies of the dental licenses for each of the dentists who have a partial or full ownership interest in any of the Kool Smiles professional corporations or their individual offices, and we expect to produce them in our next response. If “dentistry certifications” was intended to mean information other than copies of the dental licenses for the various dentists who have an ownership interest in the Kool Smiles professional corporations and/or offices, please let us know so that we can respond appropriately.

Request No. 2(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.

Response to Request No. 2(a):

In our next response, we expect to include a chart that lists the total number of dental procedures performed by **REDACTED** and **REDACTED** **REDACTED**, respectively, on Kool Smiles patients since January 2010.

Request No. 2(b):

For each person with a partial or full ownership interest, please provide their employment contract with Kool Smiles.

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Response to Request No. 2(b):

We are working to gather copies of the individual employment contracts between Kool Smiles and **REDACTED**, respectively. In our next response, we expect to produce to you the requested employment contracts.

Request No. 2(c):

All purchase agreements, professional services agreements, and attachments by and between Kool Smiles and affiliates.

Response to Request No. 2(c):

We would like to discuss with the Committee staff this request so that we can provide responsive information in an appropriate manner, given concerns about confidential and proprietary information.

Patient Abuse and Medicaid Fraud

We would appreciate any information you have regarding any “complaints regarding abusive treatment of patients” so that we can take all appropriate actions. In response to your requests for information and documents, our initial responses follow. We expect to provide additional information and productions in our next response to you.

Request No. 3:

All documents related to production goals set out by Kool Smiles.

Response to Request No. 3:

Kool Smiles does not set out “production goals” for its dentists. Kool Smiles does, however, monitor each dentist’s production, quality and billing practices using a variety of metrics, and records this information on reports used by clinical leaders and auditors, all of whom are licensed dentists. In addition, Kool Smiles sets revenue goals for its offices, and goals regarding the number of patient visits expected for each office. If this is of interest to you, we will provide relevant documents to you as part of our next response.

Request No. 4:

All policies and documents, including emails, regarding any contests or other bonus incentive structure for each dental procedure since January 2010.

Response to Request No. 4:

Kool Smiles has never had a contest or bonus incentive structure for any particular dental procedure. However, Kool Smiles dentists are eligible to participate in a productivity bonus

plan, provided the dentist completes an initial clinical audit and continues to maintain clinical quality standards as determined by periodic clinical audits by internal and external clinicians. If this information is of interest to you, we will provide relevant documents to you as part of our next response.

Additionally, from time to time, Kool Smiles has offered various office-based contests and recognition programs, with nominal prizes, to its dentists and other employees based upon a variety of criteria, including the number of patients to whom quality care and services can be provided in a certain day or other specified time frame. Please let us know if you are interested in receiving and reviewing any documents describing these types of contests.

Request No. 5:

The number of baby root canals and crowns each of your Kool Smiles facilities has performed [sic] on all Medicaid and non-Medicaid patients since January 2010.

Response to Request No. 5:

As described above, Kool Smiles focuses its practice on providing dental services to and treating underserved Medicaid patient populations who have traditionally been denied or who have faced significant obstacles blocking access to quality dental care.

Kool Smiles is in the process of collecting the requested data. Once it has been collected, we will provide a chart that sets forth by CDT code a listing of the number of “pulpotomies (which is what we believe your refer to as “baby root canals” is directed towards)”, Stainless Steel Crowns, and Nu Smiles crowns performed by dentists in each Kool Smiles office since January 2010. If there are specific procedure codes that are of interest to you, please inform us so that we can be responsive to your request.

Request No. 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?

Response to Request No. 6:

In our next response, we expect to provide data regarding Medicaid patients that have received restorative or endodontic care (based on billings to specific CDT codes) in multiple quadrants of their mouth during a single visit. However, due to our data systems, Kool Smiles does not have data to readily calculate the percentage of patients who received such care during a single visit as compared to all patients who required multiquadrant restorative or endodontic care.

Request Nos. 7, 8 and 9:

All policies, procedures, and documents regarding parental or guardian observation of dental procedures.

All policies, procedures, and documents regarding the use of the "papoose board" or other restraint devices during dental procedures.

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.

Response to Request Nos. 7, 8, and 9:

Kool Smiles conducts extensive compliance and clinical training of the dentists it employs. The materials used by Kool Smiles for training of all new dentists, and annual compliance training of all dentists, includes the Kool Smiles Compliance Program document, the Kool Smiles Code of Conduct, the Kool Smiles Healthcare Fraud Prevention Training Program document, the "Kool Smiles Dentist Orientation Training" manual, and the "Kool Smiles Doctor Training Manual (AAPD Guidelines)." We enclose the current materials, which have been in use since January 2010. If you would like earlier versions of these materials, we would be glad to provide them. We are in the process of gathering additional materials that are used in training dentists, and will produce them with our next response. We also would be glad to discuss, at your request, any aspect of the dentist training program and materials.

We enclose the 12-page Kool Smiles Compliance Program (June 1, 2010), which discusses the Compliance Program; the organizational structure of the Compliance Program, the responsibilities of Kool Smiles personnel; the responsibilities of management; the responsibilities of the Compliance Officer; the responsibilities of the Compliance Committee; and the responsibilities of the Board of Directors.

Next, we enclose the 16-page Kool Smiles Code of Conduct (June 1, 2010), which includes specific legal compliance standards, including health care fraud issues such as anti-kickback laws and financial relationships, False Claims Act, coding and billing, reasonable and necessary services, and documentation topics. This Code of Conduct also has a section on the Kool Smiles reporting mechanism, which expressly states that "[p]ersonnel are required to report all actual or suspected compliance issues related to Kool Smiles' operations," and which provides for reporting through managers, the General Counsel, the Compliance Officer, or the Integrity Hotline.

Third, we enclose the "Kool Smiles Healthcare Fraud Prevention Training Program and HIPAA Training 2012 Materials." This 28-page PowerPoint used in dentist and staff training covers topics including the benefits of a compliance program; guidelines for compliance programs; the requirements of the federal Deficit Reduction Act of 2005; the False Claims Act and its anti-retaliation provisions; Kool Smiles' policy with respect to strict adherence to the Compliance Program; specific examples of dental fraud; key risk areas; the federal Anti-Kickback Statute; the anti-patient inducement statute; employment of excluded

individuals; reporting; and HIPAA privacy and security laws and restrictions. Slide 22 of that deck summarizes some key points of the Kool Smiles' overall Compliance Program, any of which we would be glad to discuss in any further detail.

With respect to parental or guardian observation of dental procedures, Kool Smiles maintains policies and procedures regarding parental or guardian observation during the treatment of minors. It is Kool Smiles' policy to allow parents and guardians to accompany their children during treatment, if they request. The most recent policy concerning parent or guardian observation is reflected in our policy "Our Guests -Allowing Parents in the Clinical Environment" SOP (June 2010), which we enclose.

With respect to policies regarding medical immobilization, Kool Smiles maintains policies and procedures regarding behavior guidance and the appropriate use of medical immobilization. The goals of behavior guidance is to alleviate fear and anxiety, deliver quality dental care, build a trusting relationship between the dentist and child, and promote the child's positive attitude toward dental care. Our policy is reflected in our patient/parent consent form, "Our Office – Behavior Guidance with Forms" SOP, which we enclose.

With respect to dentist training, please note that all Kool Smiles dentists are dental school graduates, have completed applicable boards of examination, have obtained applicable state dental licenses, are subject to background checks, have received appropriate credentialing, and are fully qualified to practice dentistry. In addition, Kool Smiles' leadership dentists, including regional and area dentists, provide training, typically 3-5 days of in-office training, to all of its newly hired dentists – both new graduates and those with prior clinical work experience. Clinical training focuses on the Kool Smiles Clinical Treatment Guidelines, which are based on and incorporate the treatment guidelines of the American Academy of Pediatric Dentistry (AAPD) and American Dental Association (ADA) and involves a review of certain clinical procedures and hands-on supervision while treating Kool Smiles patients.

Specifically, we enclose the training materials that are provided and taught to each new Kool Smiles dentist – the 279-page "Kool Smiles Dentist Orientation Training" manual, and the 256-page "Kool Smiles Doctor Training Manual (AAPD Guidelines)." These are extensive materials, and include topics that are responsive to your questions and that otherwise provide information regarding Kool Smiles, its business philosophy and mission, and its approach to clinical and compliance issues. Specifically, in the "Kool Smiles Dentist Orientation Training" document, Kool Smiles trains dentists on topics that include introduction to children's dentistry concerns for underserved communities in the United States; the Kool Smiles philosophy; company origins and office locations; dental leadership team; NCDR organizational structure; clinical leadership organization; compliance program; clinical quality auditing program; treatment philosophy; scheduling appointments; policy on use of anesthetic; policy on extractions; policy on restorative work; guidelines for prescribing dental radiographs; AAPD and ADA clinical guidelines for dental X-rays; policy regarding

stainless steel crowns; policy regarding pulp therapy; dental neglect; “parent in the back” policy; other standard operating procedures; and training on CDT coding.

Through the “Kool Smiles Doctor Training Manual (AAPD Guidelines)” Kool Smiles trains dentists on specific clinical guidelines as well as on specific Kool Smiles policies and procedures. Kool Smiles has adopted the American Academy of Pediatric Dentist (AAPD) as the backbone for its own operating framework. This training document provides the AAPD Guidelines along with additional commentary and discussion from Kool Smiles. This document also details Kool Smiles’ Code of Business Conduct.

We would gladly provide additional information at your request about the Kool Smiles’ training program.

Request No. 10:

The amount of revenue [sic] 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.

Response to Request No. 10:

We are in the process of collecting this data and, once collected and assembled, will provide to you a chart listing Kool Smiles’ revenue for Medicaid patients per clinic, as broken down by the various billing codes for the procedures requested. We may need to have a conversation with your offices to confirm the CDT codes that are subject to this request.

Request No. 11:

What is the average reimbursement for x-rays per patient per year for the past three years?

Response to Request No. 11:

We would appreciate the opportunity to discuss this request with your staff for clarification, so that we can provide responsive data.

Request No. 12:

All policies, if any, related to non-retaliation policies.

Response to Request No. 12:

Kool Smiles’ maintains various non-retaliation policies, including a policy prohibiting any retaliation against internal whistleblowers. A copy of the policy addressing the prohibition

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against whistleblower retaliation can be found in Kool Smiles Compliance Program documents. In addition, the Kool Smiles Code of Conduct and employee handbook includes ethics and compliance provisions that each employee must read, including the Company's non-retaliation policies. Each employee acknowledges his or her understanding of the ethics and compliance provisions by electronic acknowledgement through the Company's Human Resource Information System. A current copy of Kool Smiles' Compliance Program and Code of Conduct is being provided for your review in response to Request Nos. 7, 8 and 9. Please let us know if you require any additional information or materials at this time.

Request No. 13:

All emails and other documents used to promote the existence of the Disclosure Program to employees of Kool Smiles.

Response to Request No. 13:

We are interpreting the term "Disclosure Program" as used in this request to be a reference to Kool Smiles' programs to encourage employees to report concerns of any suspected fraud or abuse. Please let us know if our interpretation of the request in this regard is incorrect so that we may follow up to respond appropriately. We are collecting responsive materials, and will provide them to you with our next response.

We hope this initial response is responsive to your informational needs. We have made, and are continuing to make, every effort to specifically address each of your document and information requests, and we continue to gather additional materials. We are working diligently to complete the response over the next several weeks and will be in communication with you regarding our next production. To the extent that you have any additional questions or we can provide additional information or clarification to the above responses, please do not hesitate to contact us.

Regards,

David King

General Counsel
Senior Vice President of Human Resources
NCDR LLC