

# Taking Profit from the Mouths of Babes

James R. Moriarty  
Moriarty Leyendecker  
4203 Montrose, Suite 150  
Houston, TX 77006  
(713) 528-0700  
jim@moriarty.com  
[www.moriarty.com](http://www.moriarty.com)

Jim Moriarty  
Kevin Tumlinson

December 8, 2011

# Taking Profit from the Mouths of Babes

**How the combination of tax policy and Wall Street greed results in the systematic bilking of Medicaid and a generation of traumatized children.**

**By Jim Moriarty and Kevin Tumlinson**

There's an old party game where someone asks, "What would you do for a million dollars?"

Answering this question can reveal a lot about you as a person. Would you steal for the money? Would you hurt someone? Would you hurt a child?

As empathetic, moral, and ethical human beings we hope there is a line we would refuse to cross. It's wrong to steal, we say. It's horrible to hurt someone for money. And it is absolutely unthinkable to hurt a child under any circumstances.

Humans, we reason, will largely refuse to do evil things out of a sense of common decency, if not a fear of social or legal reprisal.

The problem is corporations<sup>1</sup> aren't human.

The simple fact is that inhumane acts occur every day, and the payoff is a lot more than a million dollars. In fact, thousands of children are being systematically abused and Americans are paying the bill for it, all as part of an elaborate and reprehensible disregard for state and federal laws.

We'll get to that in a moment.

Isaac is a four-year-old special-needs child. As an infant, he suffered physical abuse that left him with five skull fractures, bilateral retinal disorder (bleeding behind both eyeballs), subdural hematoma (bleeding on the brain), and seizure disorders. Beyond these physical maladies was an ever-growing litany of psychological and emotional injuries that only became evident over time.

---

<sup>1</sup> This may sound like we are anti-Corporate America. We are not. Corporations are the lifeblood of America.

There are several kinds of corporations including general for-profit corporations, general not-for profit corporations and professional limited liability corporations (or companies) ((PLLCs)). PLLCs exist to allow licensed professionals such as doctors, dentists and lawyers the same limited liability and tax benefits available to general corporations, subject to the general rule that only licensed medical, dental or legal professionals can own and control a PLLC. Also, generally a PLLC owes a fiduciary duty to the patients, cannot split fees with non-professionals, and cannot have officers or managers who are non-professionals. These laws exist to prevent the revenue over patient welfare disaster explained in this paper.

He is considered “medically fragile” — a term used to describe children who require special assistance, medication, or treatment just to survive. Yet, Isaac’s needs brought foster parents Darren and Stacey into his life, and ultimately, Darren and Stacey adopted Isaac.

Immersed in a loving, stable environment, Isaac began to blossom, moving on from the terrors of his infancy. However, lingering psychological trauma makes Isaac uneasy when he does not know exactly what is happening. For peace of mind, he needs to comprehend the world around him.

Like his mom, Isaac thinks it is a regular school day. So when he and his adopted brother, Joel, are taken to the art room at his school, he tries to be a good boy and follow the adults’ instruction. Only minutes go by and Isaac’s safe environment turns into a battle zone.

Three adults are holding him down in the art room, now a makeshift dental room, and he is screaming, kicking, and gagging as he is subjected to what can only legitimately be described as child abuse. Close by, Isaac’s adopted brother, Joel, can hear Isaac screaming — a fact made all the more disturbing because Joel is legally deaf, having only partial hearing in one ear. Joel frantically signs to his hearing aide, Stephanie, asking, “What is happening to my brother?”

Forty minutes pass before the dentist and the dental assistants have finished their gruesome work — an eternity for Isaac, who can’t understand why these adults are hurting him. In those forty minutes, however, the dentist and assistants are somehow able to take x-rays, perform two root canals, and apply two stainless steel crowns. The root canals are botched so badly they will have to be redone.

Worst of all, none of the dental work that Isaac was forced to endure was necessary. He did not have so much as a cavity to be filled.

In the afternoon, when Isaac arrives home, his mom, asks him, “How was your day, bud?” Isaac bursts into hysterical sobs, and it is several minutes before Stacey can get him to show her where he hurts. When he opens his mouth, Stacey is shocked and outraged by what she sees.

She is outraged because she repeatedly informed the people operating the mobile dental unit that they could not perform any procedures on her medically fragile son. No fillings. No crowns. Definitely, under no circumstances, root canals.

The company operating the mobile unit that visits public schools throughout the state at first claimed Stacey gave permission for the procedures, then admitted she said “no fillings,” but said nothing about root canals. Finally, they claimed the whole thing had been a “training error.”

“But don’t worry,” an advocate for the company said. “Your insurance won’t be charged for the root canal.”

The problem is pretty simple. Wall Street hedge funds and private equity groups have discovered a veritable gold mine. They mine for gold by purchasing dental clinics, paying one of their employee dentists to pretend that he/she actually owns and controls the clinics, and then treating incoming patients with a laser-like focus on increased profits. The corporate control business model puts financial goals over legitimate dental needs, and the primary target is in Medicaid-paid dental services to children. However, the model is increasingly pervading all dentistry for children, spreading across the country like a cancer. The thought comes to mind, "There ought to be a law against this." Interestingly, there are such laws, but because of a lack of awareness on the part of the authorities, nothing is being done. A single Assistant U.S. Attorney or Assistant District Attorney could put these companies out of business over his lunch hour.

At the core of this scam is the intersection of two different policies: tax policy and independent medical/professional judgment policy. Hedge funds and private equity funds circumvent the medical/professional judgment laws, and at the same time convert ordinary dental income into capital gains so as to maximize revenue and at the same time, pay much lower taxes. The economic result of this is the cheating of the American taxpayer and systematic and widespread child abuse.

Let's look at three dental practice models. The first we will call "Honest Dentist."

**\$500,000 annual revenue**  
**\$300,000 overhead**  
**\$200,000 net profit**

**30% taxes (\$60,000) = \$140,000 net cash after taxes**

But what happens if the owner of a dental practice decides to sell his or her practice to someone else? Like a hedge fund.

Even though the law forbids a dentist from selling his dental practice to a non-dentist, there are dentists who are ready, willing and able to sell their dental practices to hedge funds. Let's call this dentist "Dishonest Dentist." Here is the economic impact of that transaction:

**\$500,000 annual revenue**  
**\$300,000 overhead**  
**\$200,000 net profit**

Because for-profit general corporations are valued as ongoing businesses by Wall Street, with \$200,000 in net profit, hedge funds would be willing to purchase Dishonest Dentist's practice for a 10% cap rate, or 10 times net revenue. Now, Dishonest Dentist gains \$2,000,000 FOR EXACTLY THE SAME BUSINESS HE HAD WHEN HE WAS RUNNING AN HONEST BUSINESS. No overtreatment, no rushed work, but he still gets \$2,000,000 when he sells it as an ongoing business. Here's where it gets fun. He still has to pay taxes but now he pays 15%, the capital gains rate.

**15% taxes (\$300,000) = \$1,700,000 net cash after taxes**

Unlike PLLCs, ownership of a dental practice by a for-profit corporation introduces a fundamental conflict of interest into the business model.

A for-profit corporation exists to make more money every year. In fact, they are obligated to their shareholders and investors to increase their profits annually. That's how a corporation is judged to be successful. It's not a bad thing it's the nature of the business. General for-profit corporations owe a legal duty to put the interests of their shareholders first.

If a corporation owns a factory, it can meet its obligation to increase profits by increasing the efficiency and output of the factory. The directive is to create more widgets in the same amount of time and with lower overhead.

More product. Faster manufacturing. Fewer costs.

That's how a corporation makes its owners, its shareholders, happy.

But what if the "product" is something other than a widget? Widgets can be uniform. They can be put in molds, run on assembly lines, skittered along conveyor belts. Making more widgets means improving the process, building as fast as technology or labor will allow, and living with a certain margin of error for mistakes.

People are not widgets.

People require individual care and consideration. There is no acceptable margin of error when dealing with the health of people. There is no acceptable defect in care that will be tolerated.

The conflict of interest that arises when for-profit corporations take over a dental practice boils down to the fact that corporations can't feel, can't care, and can't empathize. They can't hold professional licenses. They don't know how to read x-rays. They can't attend medical school. They can't take board exams, or be authorized by the state to perform medical procedures.

In short, corporations can't be human.

Dishonest Dentist was able to cash in by cashing out. Rather than make a paltry low-six-figure income for the year, he sold his practice to a for-profit corporation and picked up 12 times his annual salary in the process. Putting \$1.7 million in the bank can help salve any lingering regrets he might have about aiding the corporation in breaking the law.

A 12 to 1 advantage makes for good odds, but it's chump change for someone who is truly ambitious.

Truly Greedy Dental Corporation has the same practice as Honest and Dishonest Dentists, with the same overhead and the same number of patients. In every respect, they have the same potential for profit. And that just isn't enough.

Truly Greedy Dental Corporation wants to make money hand-over-fist. Its owners want to fly in a G5. They want to live in the finest neighborhoods. They want it all. They already have a plan for more than doubling the net income: double output for the year without increasing overhead by much.

For most businesses, doubling output means churning out more products, creating more widgets. For Truly Greedy Dental Corporation, it means doubling the number of procedures. Same number of patients, same time allocated for the patients, but twice the number of procedures.

Volume and speed are the keys. The more procedures Truly Greedy can tell its employees to do, the more money it can make. Doubling the number of procedures means increasing its overhead slightly, but the profit it makes helps compensate.

**\$1,000,000 annual revenue**  
**\$350,000 overhead (slight increase)**  
**\$650,000 net profit**

We're off to a good start. Just by doubling the number of procedures, Truly Greedy Dental Corporation has more than tripled the net profit, even with the increased overhead. It's going to be a good year.

But it isn't enough. Truly Greedy wants more. So when it hears that another private equity firm is looking to purchase dental practices, it is more than willing to put its business up for sale.

At its current numbers, Truly Greedy Dental Corporation is worth a projected \$6.5 million. The for-profit corporation makes its offer, and Truly Greedy gleefully accepts, laws be damned.

At the same 10X cap rate and 15% tax, Truly Greedy is pleased with what it takes home.

**\$6,500,000 – minus the \$2,000,000 purchase price minus 15% tax (\$675,000) = \$3,825,000 net cash after tax**

Let's recap:

Honest Dentist took home \$140,000 for the year.

Dishonest Dentist cashed out for 12 times that amount at \$1,700,000 just by selling his practice to Wall Street.

Truly Greedy Dentist Corporation cashed out at \$3,825,000<sup>3</sup>. Doubling the number of procedures but not the time it takes to treat the patient, gave Truly Greedy a 27 to 1 cash advantage over honest dentist.

---

<sup>3</sup> These numbers may seem high. Actually they are low. Small Smiles sold to a private equity group for \$470,000,000. Kool Smiles reportedly sold for \$700,000,000. All Smiles sold for what is believed to be hundreds of millions of dollars to its dentist owner who now lives in a

Numbers like that make it tough for anyone to consider saying no. Morals, ethics, conflicts of interest — these things tend to look a lot smaller in the rear-view mirror of a Bentley.

Converting these small dental practices into large corporate-run practices has opened a way for dentists to make tens or even hundreds of millions, but it has also opened the door to systematic corruption and abuse. To increase the number of procedures performed, dentists are performing procedures that are unnecessary and perhaps even unwise. Their victims are often lower-income families, who neither realize anything is wrong nor that they can fight back. This happens every day, to thousands of children, across America.

Compounding this, many of these corporate-owned dental practices are able to bill Medicaid, which places few limits on what can be performed on a single patient, and does not even require proof that the procedure be necessary. As a result, there is a gaping loophole in the system that allows for-profit corporate dental practices to "stack" procedures. A small cavity filling suddenly includes two root canals, four caps, and three additional fillings. Medicaid is billed for all of these. Money pours in to reward a corrupt system.

Bilking the taxpayers out of hundreds of millions of dollars each year is bad enough, but it gets worse. Much worse.

Beyond money, there is a human cost to this corruption of the dental industry. The most troubling victims are those who can't speak for themselves, can't defend themselves, and can't retaliate. A lack of resistance, therefore, increases profitability.

To make the business more "efficient" these practices must find ways to decrease resistance while increasing the number of procedures.

The perfect target, therefore, is children in low-income areas.

Cloaking the clinics in a thin veneer of community service opens the door to schools and neighborhoods. Parents who wouldn't normally be able to afford dental care for their children are thrilled to discover that a service exists so close to them, and that the bill will be passed along to Medicaid.

To maximize profits, corporate-owned dental clinics use strategies like placing the child in a full-body restraint and separating the child from the parent during treatment. In some states, they even bill for the restraints. Children are strapped to papoose boards so they can't move and interfere with the procedures, slowing things down. Parents are kept out of the procedure room, and therefore aren't present to stop or slow progress. Best of all, no one will question whether there was actually a need for the procedures performed.

---

\$14,000,000 Dallas home with a Bentley in the garage next to the Porsche. He owns not one, but two Gulfstream jets. All on a dental practice specializing in treating Medicaid children.

It's a perfect system.

It's a horror, an injustice, and a blight.

Greed is the business model. Everything done by these corporate-owned dental practices is centered on making more and more profit, regardless of who gets hurt. And because it's so easy, and there is so much money to be made, laws prohibiting the practice are irrelevant. Fines and lawsuits become just another business expense.

It won't end well.

Now that these corporations have taken a bite from the apple, all they can see are the profits to be made. They will continue to buy dental practices and continue to push for more and more growth. See more patients in less time. Perform more procedures per patient.

It's easy to see where this is going. With so much profit to be made, and so little to prevent corruption, why would the greed stop here? The reality is that it won't. It will keep growing and keep absorbing dental practices until private practices and PLLCs no longer exist.

The damage that this is doing to our nation's healthcare is revolting. It reaches well beyond dentistry and eats away at the core of our healthcare system. The victims are the helpless and unsuspecting children strapped to tables while profit is ripped, along with trust and humanity, from their mouths. But this corrupt system has also made victims of the competent and honest medical professionals who find themselves at a complete competitive disadvantage.

PS: A note for the authorities:

In virtually every state, there are laws forbidding corporations from practicing dentistry. Forbidding fee splitting. Forbidding anyone other than a dentist from owning and controlling a dental clinic. Forbidding anyone other than a dentist from owning a dental PLLC.

In every instance, for the corporate ownership to function to the satisfaction of the hedge fund owner, they must have a "pretend" owner of the clinic and the PLLC. These pretend owners may in fact be dentists but they have no actual ownership interest. They don't buy the clinics and they can't sell them, except to whomever the corporate owner says to sell to, at a price the corporate owner is willing to accept.

Our favorite example is Dr. Gloria King, who has filed legal papers with the state of Texas claiming to be the owner and manager of the PLLCs that operate the Texas Small Smiles clinics. Well, she is a dentist - on an Indian Reservation in Oklahoma, working full time for the U.S. Government. She has nothing to do with the ownership or operation of the Texas Small Smiles clinics, other than receiving a monthly amount to pretend she is the owner and operator of those clinics. If she were brought before a grand jury, she could disclose the actual owners in 15 minutes.