

BEFORE THE MINNESOTA  
BOARD OF DENTISTRY

In the Matter of  
Mazen Manla, D.D.S.  
License No.: D11855

**FINDINGS OF FACT,  
CONCLUSIONS,  
AND FINAL ORDER**

The above-entitled matter came before Administrative Law Judge (“ALJ”) James Mortenson based upon a Motion for Summary Disposition filed by the Minnesota Board of Dentistry (“Board”) Practitioner Review Committee (“Committee”) on September 16, 2022. The matter was initiated pursuant to the Notice and Order for Prehearing Conference and Hearing (“Notice of Hearing”) issued by the Committee on February 15, 2022. Nicholas Lienesch, Assistant Attorney General, represented the Committee. Licensee represents himself in this matter.

On December 8, 2022, the ALJ issued a Recommendation and Order on the Committee’s Motion for Summary Disposition (“ALJ’s report”), recommending the Board has grounds to take disciplinary action against Licensee’s dentistry license. (A true and correct copy of the ALJ’s report is attached hereto and incorporated herein as **Exhibit A.**)

The Board convened to consider the matter on January 13, 2023 via hybrid format at Board offices and Webinar, at 335 Randolph Avenue, St. Paul, MN 55102. Nicholas Lienesch, Assistant Attorney General, appeared and presented oral argument on behalf of the Committee. Licensee appeared *pro se* and presented oral argument on his own behalf. Committee members Angela Rake, D.D.S., M.S.; Hassan Ismail, D.D.S.; Heidi Donnelly, L.D.A.; and Ruth Dahl, did not participate in deliberations and did not vote in the matter. Rebecca Huting, Assistant Attorney General, was present as legal advisor to the Board.

## **FINDINGS OF FACT**

The Board has reviewed the record of this proceeding and hereby issues the following Findings of Fact:

1. Licensee is owner and operator of Amana Dental (Clinic), located in Minneapolis, Minnesota.
2. Licensee entered into an Agreement for Corrective Action with the Board in 2010, based upon substandard periodontal care and substandard recordkeeping.
3. Prior to December 2014, Licensee was credentialed as a provider in the Delta Dental insurance network.
4. In December 2014, Delta Dental terminated Licensee from its networks, based upon Delta Dental's internal determination that Licensee engaged in billing fraud.
5. Licensee was the owner and operator of the Clinic between 2015 and 2019.
6. Licensee entered into a second Agreement for Corrective Action with the Board in 2017 based upon multiple factors, including improper billing.
7. Andrea Ruby is a dentist licensed in Minnesota who once applied for a job at the Clinic but has not worked for the Clinic at any time.
8. Emilio Galarraga is a dentist licensed in Minnesota who worked for the Clinic on four dates in 2017: August 4, 2017; August 11, 2017; August 25, 2017; and September 8, 2017.
9. Licensee's Clinic submitted 32,935 claims to Delta Dental for reimbursement for dental services purportedly performed by Andrea Ruby, from September 23, 2014, to September 9, 2019. Delta Dental paid the Clinic \$1,043,318.10 for the claims.
10. Licensee's Clinic submitted to Delta Dental 14 claims for reimbursement for dental services purportedly performed by Emilio Galarraga on January 4 and January 18, 2017.

Dr. Galarraga did not work at the Clinic on those dates. Delta Dental paid the Clinic \$131.50 for those claims.

### CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board makes the following Conclusions:

1. The Administrative Law Judge and the Board have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50, 150A.08.
2. The Committee has complied with all procedural requirements of statute and rule and this matter is properly pending before the Administrative Law Judge and the Board.
3. The Board may impose discipline upon a licensee who fails to comply with applicable standards.
4. The Committee bears the burden of proof to establish its allegations by a preponderance of the evidence.
5. The Committee has established that Licensee engaged in fraud in connection with the practice of dentistry in violation of Minnesota Statutes section 150A.08, subdivision 1(1).
6. The Committee has established that Licensee engaged in conduct unbecoming a person licensed to practice dentistry in violation of Minnesota Statutes section 150A.08, subdivision 1(6) and Minnesota Rule 3100.6200(A), (H), and (I).

### ORDER

Based on the foregoing Findings of Fact and Conclusions, the Board issues the following Order:

1. IT IS HEREBY ORDERED that the Committee's Motion for Summary Disposition is GRANTED.
2. IT IS FURTHER ORDERED that Licensee's license to practice as a licensed dentist in the State of Minnesota is **SUSPENDED thirty (30) days from the date of this Order** for an indefinite period of time.
3. IT IS FURTHER ORDERED that during the period of suspension Licensee shall not engage in any conduct which constitutes the practice of dentistry as defined in Minnesota

Statutes section 150A.05 subdivision 1, and shall not imply or suggest to any persons by words or conduct that Licensee is authorized to practice as a dentist in the State of Minnesota.

4. IT IS FURTHER ORDERED that Licensee may petition the Board to have the suspended status removed from his license at such time as he is willing to respond to the Findings of Fact set forth above and following at least 6 months from the date of this Order. His license may be reinstated, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof shall be upon Licensee to demonstrate by a preponderance of the evidence that he is capable of conducting himself in a fit and competent manner in the practice of dentistry. At the time of Licensee's petition, Licensee may be directed to meet with a Committee to review his petition. In petitioning for removal of the suspension, Licensee shall comply with or provide the Board with, at a minimum, the following:

a. A response to each separate fact set forth in the Findings of Fact.

b. Licensee shall also submit the following in at the time of his petition:

1) Civil Penalty. Licensee must pay to the Board a civil penalty totaling \$50,000. Payment may be made by cashier's check or money order, payable to the Minnesota Board of Dentistry and mailed to the Minnesota Board of Dentistry, c/o Bridgett Anderson, Executive Director, 335 Randolph Avenue, Suite 250, St. Paul, MN 55102.

2) Coursework. Licensee shall successfully complete the coursework described below. All coursework must be approved in advance by the Committee. Licensee is responsible for locating, registering for, and paying for all coursework taken pursuant to this Order. None of the coursework taken pursuant to this Order may be used by Licensee to satisfy any of the continuing dental education/professional development requirements of Minnesota Rules 3100.5100, subpart 2. The coursework is as follows:

i. PROBE Professional Ethics and Boundaries Program.

Within nine months of the effective date of this Order, Licensee shall successfully complete the PROBE Professional Ethics and Boundaries program offered through the Center for Personalized Education for Physicians (“CPEP”), or another comparable ethics course approved in advance by the Committee. To successfully complete the course, Licensee must receive a passing evaluation or grade, without any condition or qualification. In addition, Licensee shall take all steps necessary, including signing any waiver and/or consent forms required to ensure that CPEP will provide a copy of any report to the Committee after completion of the program.

3) Coursework Report. Within 30 days after completing the course listed above, Licensee shall submit to the Committee:

i. Proof of Licensee’s attendance and completion of the course;

ii. Copies of all materials used or distributed in the course; and

iii. A summary report of what Licensee learned in the course and specific information addressing how Licensee will incorporate this recently gained knowledge into Licensee’s practice.

iv. Licensee’s reports shall be typewritten in Licensee’s own words, double-spaced, at least two pages in length but no more than three pages, and shall list references used to prepare the report.

v. All coursework reports submitted by Licensee are subject to review and approval by the Committee.

5. IT IS FURTHER ORDERED that Licensee shall meet all reregistration requirements in effect at the time of his petition to reinstate his license, including but not limited

to completing the appropriate application, paying the requisite fees, and completing any necessary continuing education requirements.

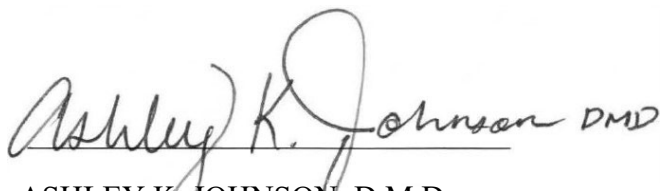
6. IT IS FURTHER ORDERED that Licensee's violation of this Order shall constitute the violation of a Board order for purposes of Minnesota Statutes section 150A.08, subdivision 1(13), and provide grounds for further disciplinary action.

7. IT IS FURTHER ORDERED that the Board may, at any regularly scheduled meeting following Licensee's petition for reinstatement, take any of the following actions:

- a. Reinstatement Licensee's license;
- b. Reinstatement Licensee's license with limitations upon the scope of Licensee's practice and/or with conditions for Licensee's practice; or
- c. Continue the suspension of Licensee's license upon his failure to meet the burden of proof.

Dated: January 13, 2023

STATE OF MINNESOTA  
BOARD OF DENTISTRY

A handwritten signature in cursive script that reads "Ashley K. Johnson DMD". The signature is written in dark ink and is positioned above the printed name and title.

ASHLEY K. JOHNSON, D.M.D.  
PRESIDING BOARD MEMBER

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE BOARD OF DENTISTRY

In the Matter of Mazen Manla, D.D.S.

License No. D11855

**RECOMMENDATION AND ORDER  
ON THE COMMITTEE'S MOTION  
FOR SUMMARY DISPOSITION**

This matter came before Administrative Law Judge Jim Mortenson on the Board of Dentistry (Board) Practitioner Review Committee's (Committee) Motion for Summary Disposition.

Nicholas Lienesch, Assistant Attorney General, represents the Committee. Mazen Manla (Licensee) appears on his own behalf and without counsel.

The Motion for Summary Disposition was filed on September 16, 2022. Licensee did not respond to the Motion and the record closed on September 30, 2022.<sup>1</sup>

Based upon the arguments, record, and proceedings herein, and for the reasons set forth in the accompanying memorandum, the Judge makes the following:

**RECOMMENDATION**

1. The Committee's Motion for Summary Disposition should be **GRANTED**.
2. The Board should impose disciplinary action on Licensee's license to practice dentistry in Minnesota.

**ORDER**

Further proceedings before the Judge are **CANCELLED** pending the final order of the Board.

Dated: December 8, 2022



JIM MORTENSON  
Administrative Law Judge

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<sup>1</sup> On September 27, 2022, Licensee filed a Motion for Dismissal of the case, ostensibly because he claimed the Committee failed to respond to his discovery requests. Importantly, Licensee's "Motion" did not address the Committee's Motion for Summary Disposition.

## **MEMORANDUM**

### **I. Procedural Background**

Following a complaint and an investigation, the Committee discovered that Licensee's dental clinic billed for dental services provided by two dentists. The investigation led the Committee to determine that one of the dentists never worked for the clinic. The other dentist, according to the Committee's investigation, did not work for the clinic on the dates billed. The Committee commenced this action with a Notice and Order for Prehearing Conference and Hearing (Notice), on February 15, 2022. The Committee sought a hearing to determine whether the Board should discipline Licensee because he:

1. Engaged in fraud or deception in connection with the practice of dentistry, in violation of Minn. Stat. § 150A.08, subd. 1(1); and
2. Engaged in conduct unbecoming a person licensed to practice dentistry or conduct contrary to the best interest of the public, as such conduct is defined by rules of the Board, in violation of Minn. Stat. § 150A.08, subd. 1(6), including:
  - a. Personal conduct which brings discredit to the profession of dentistry, in violation of Minn. R. 3100.6200(A);
  - b. Falsifying records relating to payment for services and related to the practice of dentistry, in violation of Minn. R. 3100.6200(H); and
  - c. Perpetrating fraud upon a patient, third party payer, or others relating to the practice of dentistry, in violation of Minn. R. 3100.6200(I).

According to the Committee, there is no genuine dispute of material facts, and the facts demonstrate, as a matter of law, that Licensee committed the violations. It maintains that Dr. Manla should, therefore, be disciplined by the Board.

Licensee did not present any facts or claims challenging the facts the Committee asserts are undisputed. Licensee did file a collection of documents with the Office of Administrative Hearings on September 14, 2022, without a motion and before the Committee's Motion was filed. Even considering those documents in relation to the allegations and Motion, the September 14 documents do not demonstrate there is a genuine dispute of material fact. Based on the record, the following facts are undisputed.



## II. Undisputed Material Facts

1. Licensee is owner and operator of Amana Dental (Clinic), located in Minneapolis, Minnesota.<sup>2</sup>

2. Licensee entered into an Agreement for Corrective Action with the Board in 2010, based upon substandard periodontal care and substandard recordkeeping.<sup>3</sup>

3. Prior to December 2014, Licensee was credentialed as a provider in the Delta Dental insurance network.<sup>4</sup>

4. In December 2014, Delta Dental terminated Licensee from its networks, based upon Delta Dental's internal determination that Licensee engaged in billing fraud.<sup>5</sup>

5. Licensee was the owner and operator of the Clinic between 2015 and 2019.<sup>6</sup>

6. Licensee entered into a second Agreement for Corrective Action with the Board in 2017 based upon multiple factors, including improper billing.<sup>7</sup>

7. Andrea Ruby is a dentist licensed in Minnesota who once applied for a job at the Clinic but has not worked for the Clinic at any time.<sup>8</sup>

8. Emilio Galarraga is a dentist licensed in Minnesota who worked for the Clinic on four dates in 2017: August 4, 2017; August 11, 2017; August 25, 2017; and September 8, 2017.

9. Licensee's Clinic submitted 32,935 claims to Delta Dental for reimbursement for dental services purportedly performed by Andrea Ruby, from September 23, 2014, to September 9, 2019. Delta Dental paid the Clinic \$1,043,318.10 for the claims.<sup>9</sup>

10. Licensee's Clinic submitted to Delta Dental 14 claims for reimbursement for dental services purportedly performed by Emilio Galarraga on January 4, and January 18, 2017. Dr. Galarraga did not work at the Clinic on those dates. Delta Dental paid the Clinic \$131.50 for those claims.<sup>10</sup>

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<sup>2</sup> See Dec. of Nicholas Lienesch, Exhibits (Ex.) F, G, Request 8.

<sup>3</sup> Dec. N. Lienesch, Ex. A.

<sup>4</sup> *Id.*, Ex. C at 1.

<sup>5</sup> *Id.*

<sup>6</sup> Dec. N. Lienesch, Ex. F, G, Request 7.

<sup>7</sup> *Id.*, Ex. B.

<sup>8</sup> *Id.*, Ex. C, F, G.

<sup>9</sup> *Id.*, Ex. D, E.

<sup>10</sup> *Id.*, Ex. D.

### III. Summary Disposition Standard

Summary disposition is the administrative law equivalent of summary judgment.<sup>11</sup> A judge or board may grant a motion for summary disposition when there is no genuine issue regarding any material fact, and the moving party is entitled to judgment as a matter of law.<sup>12</sup> The Office of Administrative Hearings follows the summary judgment standards developed in the state district courts when considering motions for summary disposition in contested case matters.<sup>13</sup>

The function of an administrative law judge on a motion for summary disposition, like a trial court's function on a motion for summary judgment, is not to decide issues of fact, but to determine whether genuine, material factual issues exist.<sup>14</sup> Summary disposition cannot be used as a substitute for a hearing or trial on the facts of a case.<sup>15</sup> The judge does not weigh the evidence; instead, the judge views the facts and evidence in a light most favorable to the non-moving party.<sup>16</sup> All doubts and factual inferences must be resolved against the moving party.<sup>17</sup> If reasonable minds could differ as to the import of the evidence, disposition as a matter of law should not be granted.<sup>18</sup> Thus, summary disposition is only proper when no fact issues need to be resolved.<sup>19</sup>

The moving party has the initial burden to show the absence of any genuine issue regarding any material fact.<sup>20</sup> A fact is material if its resolution will affect the outcome of the case.<sup>21</sup> If the moving party meets the initial burden, the burden shifts to the non-moving party to prove the existence of any genuine issue of any material fact.<sup>22</sup> A genuine issue is not a "sham or frivolous" one, and it cannot rely on mere allegations or denials.<sup>23</sup> Instead, a genuine issue requires presentation of specific facts demonstrating a need for resolution in a hearing or trial.<sup>24</sup> A genuine issue of material fact must be established by substantial evidence.<sup>25</sup>

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<sup>11</sup> *Pietsch v. Minnesota Bd. of Chiropractic Exam'rs*, 683 N.W.2d 303, 306 (Minn. 2004); see also Minn. R. 1400.5500(K) (2021).

<sup>12</sup> See *Sauter v. Sauter*, 70 N.W.2d 351, 353 (Minn. 1955); *Louwagie v. Witco Chemical Corp.*, 378 N.W.2d 63, 66 (Minn. Ct. App. 1985).

<sup>13</sup> Minn. R. 1400.6600 (2021).

<sup>14</sup> See e.g., *DLH, Inc. v. Russ*, 566 N.W.2d 60, 70 (Minn. 1997).

<sup>15</sup> *Sauter*, 70 N.W.2d at 353.

<sup>16</sup> *Ostendorf v. Kenyon*, 347 N.W.2d 834, 836 (Minn. Ct. App. 1984).

<sup>17</sup> *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988).

<sup>18</sup> *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250-51 (1986).

<sup>19</sup> *Sauter*, 70 N.W.2d at 353.

<sup>20</sup> *Thiele*, 425 N.W.2d at 583.

<sup>21</sup> *O'Malley v. Ulland Bros.*, 549 N.W.2d 889, 892 (Minn. 1996) (citing *Zappa v. Fahey*, 245 N.W.2d 258, 259-260 (Minn. 1976)).

<sup>22</sup> *Thiele*, 425 N.W.2d at 583.

<sup>23</sup> *Highland Chateau, Inc. v. Minnesota Dep't of Pub. Welfare*, 356 N.W.2d 804, 808 (Minn. Ct. App. 1984) (citing *A & J Builders, Inc. v. Harms*, 179 N.W.2d 98, 103 (Minn. 1970)).

<sup>24</sup> Minn. R. Civ. P. 56.05.

<sup>25</sup> *DHL, Inc. v. Russ*, 566 N.W.2d 60, 70 (Minn. 1997) (internal citation omitted).

#### **IV. Analysis**

The legislature has determined grounds of professional discipline of dentists in Minnesota. Among those grounds are: fraud or deception in connection with the practice of dentistry; conduct unbecoming a person licensed to practice dentistry; or conduct contrary to the best interest of the public.<sup>26</sup> The Board of Dentistry has promulgated, with authority granted by the legislature, rules defining unbecoming conduct.<sup>27</sup> If the Board determines a dentist engaged in unbecoming conduct, it may suspend, revoke, or set conditions on the license of the dentist.<sup>28</sup>

The undisputed facts demonstrate Licensee billed a third party for services that were not provided by the individuals claimed. Moreover, nothing in Dr. Manla's submissions suggest that inclusion of the names of Drs. Ruby and Galarraga was mere inadvertence or that the disputed services were actually performed by another provider. This is, on its face, fraudulent activity<sup>29</sup>, and a ground for discipline under Minn. Stat. § 150A.08, subd. 1(1). Fraud is also conduct unbecoming a person licensed to practice dentistry in Minnesota.<sup>30</sup> The fraud in this case could only be perpetrated by falsifying the records related to payment, also conduct unbecoming of a dentist.<sup>31</sup> Finally, falsifying billings and, thereby, committing fraud, may reasonably be considered personal conduct bringing discredit to the profession.<sup>32</sup>

#### **V. Conclusion**

The Committee has demonstrated that the material facts are not in dispute and that Licensee violated Minn. Stat. § 150A.08 and at least two or more Board rules. Therefore, the Motion for Summary Disposition is properly granted, and the Board should discipline Licensee based on the undisputed facts and its professional judgment.

**J. R. M.**

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<sup>26</sup> Minn. Stat. § 150A.08, subd. 1(1), (6) (2022).

<sup>27</sup> Minn. R. 3100.6200 (2021).

<sup>28</sup> Minn. Stat. § 150A.08, subd. 1.

<sup>29</sup> See *Davis v. Re-Trac Mfg. Corp.*, 149 N.W.2d 37, 38-39 (Minn 1967). Elements of fraud are: (1) a representation (2) which is false, (3) has to do with past or present fact, and (4) is material, and (5) susceptible of knowledge; (6) representer must know it to be false or must assert it as of his own knowledge without knowing whether it is true or false, and (7) must intend to have other person induced to act, or justified in acting upon it; (8) that person must be so induced to act or so justified in acting, and (9) his action must be in reliance upon representation, and (10) he must suffer damage (11) which is attributable to misrepresentation.

<sup>30</sup> Minn. R. 3100.6200(l).

<sup>31</sup> *Id.* at (H).

<sup>32</sup> *Id.* at (A).