

SUMMONS - CIVIL

JD-CV-1 Rev. 4-16
 C.G.S. §§ 51-346, 51-347, 51-349, 51-350, 52-45a,
 52-48, 52-259, P.B. §§ 3-1 through 3-21, 8-1, 10-13

STATE OF CONNECTICUT
SUPERIOR COURT
 www.jud.ct.gov



See other side for instructions

- "X" if amount, legal interest or property in demand, not including interest and costs is less than \$2,500.
- "X" if amount, legal interest or property in demand, not including interest and costs is \$2,500 or more.
- "X" if claiming other relief in addition to or in lieu of money or damages.

TO: Any proper officer; BY AUTHORITY OF THE STATE OF CONNECTICUT, you are hereby commanded to make due and legal service of this Summons and attached Complaint.

Address of court clerk where writ and other papers shall be filed (Number, street, town and zip code) (C.G.S. §§ 51-346, 51-350) 95 Washington Street, Hartford, CT 06106		Telephone number of clerk (with area code) (860) 548-2700	Return Date (Must be a Tuesday) March 14, 2017 <small>Month Day Year</small>
<input checked="" type="checkbox"/> Judicial District <input type="checkbox"/> Housing Session	<input type="checkbox"/> G.A. Number:	At (Town in which writ is returnable) (C.G.S. §§ 51-346, 51-349) Hartford	Case type code (See list on page 2) Major: M Minor: 90

For the Plaintiff(s) please enter the appearance of:

Name and address of attorney, law firm or plaintiff if self-represented (Number, street, town and zip code) Robert B. Teitelman, Assistant Attorney General		Juris number (to be entered by attorney only) 085053
Telephone number (with area code) (860) 808-5040	Signature of Plaintiff (If self-represented)	
The attorney or law firm appearing for the plaintiff, or the plaintiff if self-represented, agrees to accept papers (service) electronically in this case under Section 10-13 of the Connecticut Practice Book. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Email address for delivery of papers under Section 10-13 (if agreed to) robert.teitelman@ct.gov	

Number of Plaintiffs: **1** Number of Defendants: **2** Form JD-CV-2 attached for additional parties

Parties	Name (Last, First, Middle Initial) and Address of Each party (Number; Street; P.O. Box; Town; State; Zip; Country, if not USA)	
First Plaintiff	Name: STATE OF CONNECTICUT Address: c/o Attorney General, 55 Elm Street, Hartford, CT 06106	P-01
Additional Plaintiff	Name: Address:	P-02
First Defendant	Name: GYAMBIBI, KAKRA Address: 384 White Oak Shade Road, New Canaan, CT 06840	D-01
Additional Defendant	Name: GYAMBIBI, KWASI Address: 384 White Oak Shade Road, New Canaan, CT 06840	D-02
Additional Defendant	Name: Address:	D-03
Additional Defendant	Name: Address:	D-04

Notice to Each Defendant

- YOU ARE BEING SUED.** This paper is a Summons in a lawsuit. The complaint attached to these papers states the claims that each plaintiff is making against you in this lawsuit.
- To be notified of further proceedings, you or your attorney must file a form called an "Appearance" with the clerk of the above-named Court at the above Court address on or before the second day after the above Return Date. The Return Date is not a hearing date. You do not have to come to court on the Return Date unless you receive a separate notice telling you to come to court.
- If you or your attorney do not file a written "Appearance" form on time, a judgment may be entered against you by default. The "Appearance" form may be obtained at the Court address above or at www.jud.ct.gov under "Court Forms."
- If you believe that you have insurance that may cover the claim that is being made against you in this lawsuit, you should immediately contact your insurance representative. Other action you may have to take is described in the Connecticut Practice Book which may be found in a superior court law library or on-line at www.jud.ct.gov under "Court Rules."
- If you have questions about the Summons and Complaint, you should talk to an attorney quickly. **The Clerk of Court is not allowed to give advice on legal questions.**

Signed (Sign and "X" proper box) 	<input checked="" type="checkbox"/> Commissioner of the Superior Court <input type="checkbox"/> Assistant Clerk	Name of Person Signing at Left Robert B. Teitelman, AAG	Date signed 02/02/2017
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If this Summons is signed by a Clerk: a. The signing has been done so that the Plaintiff(s) will not be denied access to the courts. b. It is the responsibility of the Plaintiff(s) to see that service is made in the manner provided by law. c. The Clerk is not permitted to give any legal advice in connection with any lawsuit. d. The Clerk signing this Summons at the request of the Plaintiff(s) is not responsible in any way for any errors or omissions in the Summons, any allegations contained in the Complaint, or the service of the Summons or Complaint.	<i>For Court Use Only</i>
	File Date

I certify I have read and understand the above:	Signed (Self-Represented Plaintiff)	Date	Docket Number
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RETURN DATE: MARCH 14, 2017

STATE OF CONNECTICUT, : SUPERIOR COURT
Plaintiff :
 :
v. : JUDICIAL DISTRICT OF HARTFORD
 :
 :
KAKRA GYAMBIBI, AND :
KWASI GYAMBIBI, :
Defendants : FEBRUARY 2, 2017

COMPLAINT

Plaintiff, the STATE OF CONNECTICUT, represented by George Jepsen, Attorney General for the State of Connecticut, alleges the following against defendants KAKRA GYAMBIBI and KWASI GYAMBIBI (collectively, "Defendants").

SUMMARY

1. The STATE OF CONNECTICUT brings this complaint under the Connecticut False Claims Act, Conn. Gen. Stat. §§ 4-274 — 4-289, alleging that during the period beginning at least as early as June 2014 and continuing through at least March 2015, Defendants caused the State of Connecticut Employee and Retiree Benefit Plan to be billed for compound prescription drug services that (i) were not medically necessary, and/or (ii) were not documented in the medical record. This action seeks treble damages, civil penalties, and other relief for Defendants' illegal conduct.

PARTIES

2. The plaintiff is the STATE OF CONNECTICUT, represented by George Jepsen, Attorney General. This action is brought by virtue of the authority of George Jepsen, Attorney General, pursuant to Conn. Gen. Stat. § 4-276 .

3. The relevant time period for the causes of action set forth below is June 2014 through March 2015.

4. Defendant KAKRA GYAMBIBI, M.D., (hereafter, DR. GYAMBIBI) is a physician licensed by the State of Connecticut. She holds Connecticut Department of Public Health license #50062. She is a Connecticut resident. During the relevant time period, DR. GYAMBIBI was employed by a physician group that provided hospitalist services for several hospitals in Connecticut. Hospitalists primarily provide medical care to hospitalized patients.

5. Defendant KWASI GYAMBIBI (hereafter, KWASI GYAMBIBI) is a Connecticut resident. During the relevant time period, KWASI GYAMBIBI was an employee of the University of Connecticut.

6. On information and belief, DR. GYAMBIBI and KWASI GYAMBIBI are married to each other.

LEGAL AND PUBLIC POLICY BACKGROUND

7. The Connecticut False Claims Act (the Act) provides in relevant part that any person who: (1) knowingly presents or causes to be presented a false or fraudulent claim for payment or approval; (2) knowingly makes, uses or causes to be made or used, a false record or statement material to a false or fraudulent claim; or (3) conspires to commit a false claims violation, among other reasons, is liable to the State of Connecticut for relief including civil penalties and treble damages. Conn. Gen. Stat. §§ 4-275(a)(1), (a)(3) and (b) .

8. For the purposes of the Act, “knowing” and “knowingly” means that a person, with respect to information: (a) has actual knowledge of the information; (b) acts in deliberate

ignorance of the truth or falsity of the information; or (c) acts in reckless disregard of the truth or falsity of the information, without regard to whether the person intends to defraud. Conn. Gen. Stat. § 4-274(1).

9. For purpose of the Act, “[s]tate-administered health or human services program” includes, in relevant part, “programs administered by ... the Office of the State Comptroller, for the State Employee and Retiree Health programs, as well as other health care programs administered by the Office of the State Comptroller” Conn. Gen. Stat. § 4-274(7).

STATE OF CONNECTICUT PHARMACY BENEFIT PLAN

10. The State of Connecticut, via the Office of the State Comptroller, offers active and retired state employees a pharmacy benefit plan (hereafter referred to as the “Pharmacy Benefit Plan”) for themselves and their families. The Pharmacy Benefit Plan is administered by CVS Caremark Corporation (k/n/a CVS Health Corporation, hereinafter “CVS Caremark”). Details concerning patient eligibility, prescription drug benefits, exclusions and limitations, termination, and payment provisions are set forth in the State of Connecticut Pharmacy Benefit Plan (Plan Document). *State of Connecticut Pharmacy Benefit Plan, Plan Document*, Office of the State Comptroller, restated as of July 1, 2014.

11. As stated in the Plan Document, the Office of the State Comptroller, via its administrator CVS Caremark, will cover a portion of the cost of “Medically Necessary Prescription Drugs, Maintenance Prescription Drugs, and Certain Preventive Medications that (a) qualify as Covered Drugs, (b) are dispensed by a Pharmacy, and (c) are prescribed by a licensed practitioner of the healing arts operating within the

scope of his or her particular license, subject to the Exclusions and Limitations” Plan Document, page 22.

12. Pursuant to the Pharmacy Benefit Plan, reimbursement for prescriptions is expressly limited to covered services. Plan Document, page 39. The reimbursement amount paid to a pharmacy varies depending on the type of drug prescribed and specific drug benefit plan. Plan Document, page 5.

13. The Plan Document sets forth several definitions that establish coverage and eligibility.

14. The term “Covered Drug” is defined, in relevant part, as “a Medically Necessary Prescription Drug or Maintenance Prescription Drug or certain Preventative Medications” Plan Document, pages 9-10.

15. The term “Covered Service(s)” is defined as “Prescription Drugs or related products that are Medically Necessary, are described in this Plan Document, and are not listed in Section VI (Exclusions and Limitations) of this Plan Document.” Plan Document, page 10.

16. The term “Medically Necessary (Medical Necessity)” is defined as:

A Prescription Drug or related item which is Prescribed by an appropriately licensed Physician or provider; and which may be a Covered Service which: a physician, exercising prudent clinical judgment, would provide to a patient for the purpose of preventing, evaluating, diagnosing or treating an illness, injury, disease or its symptoms, and that is (1) In accordance with generally accepted standards of medical practice; (2) clinically appropriate, in terms of type, frequency, extent, site and duration and considered effective for the patient’s illness, injury or disease; and (3) not primarily for the convenience of the patient, physician or other health care provider and not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of that patient’s illness, injury or disease. For the purpose of this subsection, “generally accepted standards of medical practice” means standards that are based on

credible scientific evidence published in peer-reviewed medical literature generally recognized by the relevant medical community or otherwise consistent with the standards set forth in policy issues involving clinical judgment.

Plan Document, pages 12-13.

17. The Pharmacy Benefit Plan explicitly excludes coverage for any prescription drug that is “[d]ispensed or prescribed in a manner contrary to normal medical practices.” Plan Document, page 27.

STANDARD OF CARE AND MEDICAL NECESSITY

18. The term “medical necessity” is a well-established term in the medical field. The American Medical Association (AMA) defines medical necessity as:

Health care services or products that a prudent physician would provide to a patient for the purpose of preventing, diagnosing or treating an illness, injury, disease or its symptoms in a manner that is: (a) in accordance with generally accepted standards of medical practice; (b) clinically appropriate in terms of type, frequency, extent, site, and duration; and (c) not primarily for the economic benefit of the health plans and purchasers or for the convenience of the patient, treating physician, or other health care provider.

H-320.954—Definitions of “Screening” and “Medical Necessity,” American Medical Association Policy Statement, (CMS Rep. 13, I-98; Modified: Res. 703, A-03).

19. “The ‘prudent physician’ standard of medical necessity ensures that physicians are able to use their expertise and exercise discretion, consistent with good medical care, in determining the medical necessity for care to be provided each individual patient.” *Statement of the American Medical Association to the Institute of Medicine’s Committee on Determination of Essential Health Benefits*, American Medical Association (January 14, 2011), available at: <http://www.nationalacademies.org/hmd/~media/8D03963CAEB24450947C1AEC0CAECD85.ashx> (last visited August 19, 2016).

20. Like the well-established definition of medical necessity, a physician's care of her patients must conform to the well-established minimum standard of care that the average, prudent provider in a given community would practice; which is commonly referred to as the standard of care. Indeed, as indicated above, the standard of care is a fundamental component of medical necessity. Included within the standard of care is the establishment of the formal physician-patient relationship.

21. The physician-patient relationship is the keystone of care: the foundation from which the physician gathers data and information, makes diagnoses and plans of care, provides treatment and assures compliance and necessary follow-up. Without an established physician-patient relationship, the physician may fail to follow-up with the patient and thus be unaware of any adverse reactions or the effectiveness of treatment.

22. The medical interview is most often the first step in establishing the physician-patient relationship. *Lipkin M., Jr. In: Behavioral Medicine in Primary Care: A Practical Guide. Feldman M, Phil M, Christensen J, editors. Stamford, Conn: Appleton-Lange; 1997. pp. 1-7.* The medical interview's three functions are gathering information, developing and maintaining a therapeutic relationship, and communicating information.

23. Both an examination of the patient and a review of the patient's medical history are key elements to the standard of care. It is through the review of the patient's medical history that a physician may learn if the patient is taking other medications that adversely affect additional medications or treatments the physician may prescribe. Indeed, according to the Connecticut Medical Examination Board, a physician who writes a prescription without examining the patient and/or taking the patient's medical history violates the standard of care. *Charles R. Jones, M.D., Petition No. 2006-0111-*

001-010, 2006-0411-001-069, and 2006-0407-001-08 (State of Connecticut Medical Examining Board, April 20, 2010).

24. A physician is also required to maintain records sufficient to document and support any diagnosis or treatment rendered. The Connecticut Department of Public Health requires physicians to maintain medical records.

The purpose of a medical record is to provide a vehicle for: documenting actions taken in patient management; documenting patient progress; providing meaningful medical information to other practitioners should the patient transfer to a new provider or should the provider be unavailable for some reason. A medical record shall include, but not be limited to, information sufficient to justify any diagnosis and treatment rendered, dates of treatment, actions taken by non-licensed persons when ordered or authorized by the provider; doctors' orders, nurses notes and charts, birth certificate work-sheets, and any other diagnostic data or documents specified in the rules and regulations. All entries must be signed by the person responsible for them.

Regulations of Connecticut State Agencies § 19a-14-40.

25. Medical records also document instructions given to the patient, including follow-up care and warnings about possible complications or side-effects. The World Health Organization characterizes the clinical steps a prescriber should consider in prescribing a drug as "the process of rational treatment". Rather than a simple consultation with the patient, prescribing entails a "complex process of professional analysis" which includes, e.g., (a) defining the patient's problem, (b) specifying the therapeutic objective, (c) verifying the suitability of the specific drug, (d) starting the treatment, (e) giving the patient information, instructions and warnings about the drug and, finally (f) monitoring the treatment. World Health Organization, *Guide to Good Prescribing – A Practice Manual* (1994).

26. Simply put, the reasonable and prudent physician does not provide medical care unless such care is medically necessary for a specific patient's ailment. Accordingly,

prescriptions written for a patient when the physician has not taken the patient's medical history and/or has not made a physical examination of the patient not only lack medical necessity, but such prescriptions also violate the standard of care. Lack of documentation evidencing medical history and/or physical examination that could demonstrate medical necessity is further indicative of a failure to meet the standard of care. Accordingly, prescriptions which violate the standard of care are not prescribed in a manner consistent with normal medical practices.

COMPOUND PHARMACEUTICALS AND ADVANTAGE PHARMACY, LLC

27. Advantage Pharmacy, LLC (Advantage Pharmacy) is a limited liability corporation based in Mississippi. Advantage Pharmacy processes, fills, and dispenses compound pharmaceuticals to its customers throughout the United States, including Connecticut. Advantage Pharmacy compounds and dispenses prescription pharmaceutical products purportedly designed to treat a number of ailments including pain and scarring. Advantage Pharmacy obtains reimbursement for its pharmaceutical products from payors, including insurance companies, and obtains co-payments from its customers. Advantage Pharmacy utilizes commissioned sales representatives to market its products and services to consumers and prescribers in Connecticut.

28. Compound pharmaceutical preparations, unlike mass produced manufactured pharmaceuticals, are made based on a practitioner's prescription in which individual ingredients are mixed together in the exact strength and dosage prescribed by the provider in order to meet the unique needs of a patient. Compounded drugs are not approved by the United States Food and Drug Administration. *Compounding and the FDA: Questions and Answers*, U.S. Food and Drug Admin.,

<http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/PharmacyCompounding/ucm339764.htm#what> (last visited Aug. 16, 2016).

DEFENDANTS' SCHEME

29. Beginning prior to February 2014 and continuing through at least March 2015, KWASI GYAMBIBI worked for the University of Connecticut (UCONN) at the Stamford branch. KWASI GYAMBIBI'S and many of his coworkers at UCONN are enrolled in the Pharmacy Benefit Plan.

30. During this time period, DR. GYAMBIBI and KWASI GYAMBIBI met on several occasions with a sales representative from Advantage Pharmacy. During these meetings, Defendants received marketing materials concerning compound pharmaceutical preparations created and dispensed by Advantage Pharmacy. Defendants were also provided with Advantage Pharmacy prescription pads that contained common formulations for the compounded pharmaceuticals created and dispensed by Advantage Pharmacy. Subsequent to the meetings with the Advantage Pharmacy sales representative, KWASI GYAMBIBI inquired about becoming a paid marketing representative for the company. He received an unsigned marketing form whereby he could become a marketing representative and earn commissions ranging from 15% to 25% for Advantage Pharmacy products dispensed to customers as a result of his marketing efforts.

31. Prior to the initial meeting with the Advantage Pharmacy sales representative, DR. GYAMBIBI had never prescribed compound pharmaceuticals for her patients. Subsequent to the initial meeting with the Advantage Pharmacy sales representative DR. GYAMBIBI wrote numerous prescriptions for compound pharmaceuticals prepared

and dispensed by Advantage Pharmacy over the succeeding thirteen months. CVS Caremark reimbursed Advantage Pharmacy for each of these prescriptions pursuant to the Pharmacy Benefit Plan.

32. As an internist for several local hospitals, DR. GYAMBIBI provides care to patients admitted at the hospital. Among her duties as an internist, DR. GYAMBIBI prescribed pharmaceuticals for her patients. Despite prescribing over one hundred prescriptions for compound pharmaceutical products over at least a thirteen month period, DR. GYAMBIBI never wrote a single prescription for a compound pharmaceutical product for any of her patients that were inpatients at the hospital. Instead, all of the prescriptions for compound pharmaceuticals that DR. GYAMBIBI wrote were for her husband's UCONN coworkers, or their dependents, outside of her regular hospital practice.

33. DR. GYAMBIBI did not create or maintain any records documenting the care she provided any patient for whom she prescribed a compounded pharmaceutical. Indeed, other than the generic prescription forms provided to her by the Advantage Pharmacy sales representative, DR. GYAMBIBI did not maintain any other document one would expect a reasonable prudent physician would create and maintain in conjunction with the examination and treatment of their patient. There was no documentation of an initial examination of the patient, no plan of care, no treatment note or any other medical record to support the prescriptions for compound pharmaceuticals that she wrote. In short, DR. GYAMBIBI never met with any of the individuals for whom she wrote a prescription for compound pharmaceuticals in a professional setting. DR. GYAMBIBI never had any communication with the vast majority of the individuals for whom she wrote a prescription for compound pharmaceuticals.

34. Rather than basing her decision to write a prescription for compound pharmaceuticals on her examination of the patient, the patient's particular medical history, a diagnosis and her objective professional assessment that the prescription was consistent with her therapeutic objective and, thus, medically necessary to treat the patient's condition or ailment, DR. GYAMBIBI instead relied on one overarching factor: KWASI GYAMBIBI.

35. KWASI GYAMBIBI'S role in the scheme was to seek out and then approach his coworkers and convince them to try the compound pharmaceutical prescriptions offered by Advantage Pharmacy. During his marketing pitch, KWASI GYAMBIBI assured his coworkers that the compounded drugs were effective at treating their condition and that his wife, a doctor, would simply write the prescriptions for them. Once a coworker agreed to try the compound drug, KWASI GYAMBIBI provided his wife, DR. GYAMBIBI, with the coworker's personal information and prescription benefit card information. DR. GYAMBIBI then wrote the prescription, without examining her patient (KWASI GYAMBIBI'S coworker), and the prescription for the compound drug was submitted to Advantage Pharmacy

THE FRAUDULENT CLAIMS

36. For the claims identified below, DR. GYAMBIBI failed by any objective and reasonable standard to meet her professional and ethical prescribing responsibilities:

37. DR. GYAMBIBI wrote prescriptions for compound pharmaceuticals for Patient #11 between March 2014 and July 2014 which were filled on seven (7) occasions. On all

¹ Pseudonyms are used for this patient, and others below, in order to protect the privacy of their health information. Following the return of this Complaint to court the State of Connecticut will

seven (7) of these occasions the prescriptions were prepared and dispensed by Advantage Pharmacy. The Office of the State Comptroller, via CVS Caremark, paid Advantage Pharmacy over \$62,898 for the prescriptions DR. GYAMBIBI wrote for Patient #1.

38. DR. GYAMBIBI wrote prescriptions for compound pharmaceuticals for Patient #2 between May 2014 and August 2014 which were filled on seven (7) occasions. On all seven (7) of these occasions the prescriptions were prepared and dispensed by Advantage Pharmacy. The Office of the State Comptroller, via CVS Caremark, paid Advantage Pharmacy over \$62,912 for the compound pharmaceutical prescriptions DR. GYAMBIBI wrote for Patient #2.

39. DR. GYAMBIBI wrote one (1) prescription for compound pharmaceuticals for Patient #3 in June 2014 and a second prescription for compound pharmaceuticals for D.G. in July 2014. Both prescriptions were prepared and dispensed by Advantage Pharmacy. The Office of the State Comptroller, via CVS Caremark, paid Advantage Pharmacy over \$22,804 for the compound pharmaceutical prescriptions DR. GYAMBIBI wrote for Patient #3.

40. Between June 2014 and September 2014, DR. GYAMBIBI wrote prescriptions for compound pharmaceuticals for Patient #4 which were filled on five (5) occasions. On all five (5) of these occasions the prescriptions were prepared and dispensed by Advantage Pharmacy. The Office of the State Comptroller, via CVS Caremark, paid Advantage Pharmacy over \$57,033 for the compound pharmaceutical prescriptions DR. GYAMBIBI wrote for Patient #4.

seek an order permitting an appendix to the Complaint to be filed with the court under seal, and copied to counsel for the defendants, listing the patients' names.

41. Between August 2014 and November 2014, DR. GYAMBIBI wrote prescriptions for compound pharmaceuticals for Patient #5 which were filled on twenty (20) occasions. On all twenty (20) of these occasions these prescriptions were prepared and dispensed by Advantage Pharmacy. The Office of the State Comptroller, via CVS Caremark, paid Advantage Pharmacy over \$116,344 for the compound pharmaceutical prescriptions DR. GYAMBIBI wrote for Patient #5.

42. Between March 2014 and July 2014, DR. GYAMBIBI wrote prescriptions for compound pharmaceuticals for Patient #6 which were filled on seven (7) occasions. These prescriptions were prepared and dispensed by Advantage Pharmacy. The Office of the State Comptroller, via CVS Caremark, paid Advantage Pharmacy over \$62,868 for the compound pharmaceutical prescriptions DR. GYAMBIBI wrote for Patient #6.

43. Between April and June 2014, DR. GYAMBIBI wrote prescriptions for compound pharmaceuticals for Patient #7 which were filled on three (3) occasions. These prescriptions were prepared and dispensed by Advantage Pharmacy. The Office of the State Comptroller, via CVS Caremark, paid Advantage Pharmacy over \$34,186 for the compound pharmaceutical prescriptions DR. GYAMBIBI wrote for Patient #7.

44. DR. GYAMBIBI wrote prescriptions for compound pharmaceuticals for Patient #1, Patient #2, Patient #3, Patient #4, Patient #5, Patient #6, and Patient #7 without developing a physician-patient relationship with any of these individuals or following any well recognized and established process of rational patient treatment. DR. GYAMBIBI failed to conduct a medical examination of any of these individuals, failed to formulate a therapeutic treatment plan, and failed to verify the suitability of the compound drug or monitor her "patient". Indeed, these individuals and DR. GYAMBIBI never even spoke

about any of the compound pharmaceutical prescriptions. Instead, KWASI GYAMBIBI approached these individuals, his coworkers, and asked if they were interested in trying topical compounded prescription creams. After convincing his coworkers to try the topical creams manufactured by Advantage Pharmacy, KWASI GYAMBIBI provided his wife, DR. GYAMBIBI, with their personal information and prescription benefit card information. Together these prescriptions cost the State over \$419,045. Upon information and belief, DR. GYAMBIBI and KWASI GYAMBIBI, potentially stood to profit from these prescriptions.

45. DR. GYAMBIBI also wrote prescriptions for two additional individuals who she knew socially, but with whom she did not have a physician-patient relationship.

46. Between April 2014 and March 2015, DR. GYAMBIBI wrote prescriptions for compound pharmaceuticals for Patient #8 which were filled on twenty-eight (28) occasions. These prescriptions were prepared and dispensed by Advantage Pharmacy. The Office of the State Comptroller, via CVS Caremark, paid Advantage Pharmacy over \$96,679 for the compound pharmaceuticals prescriptions DR. GYAMBIBI wrote for Patient #8. Although DR. GYAMBIBI knew Patient #8 socially, Patient #8 was not DR. GYAMBIBI's patient. DR. GYAMBIBI neither examined Patient #8, took her medical history nor engaged in any of the other steps a prudent physician would be expected to accomplish before electing to prescribe a prescription drug. This is not an isolated incident in which a physician-friend wrote a single prescription for a friend during a social encounter. Instead, the prescriptions written by DR. GYAMBIBI for Patient #8 span the time frame of one year, and were filled on twenty-eight (28) occasions. Thus, despite failing to form the requisite professional physician-patient relationship with Patient #8, DR. GYAMBIBI

wrote compound pharmaceutical prescriptions for Patient #8 based on their social relationship.

47. In addition, DR. GYAMBIBI wrote a prescription for compound pharmaceuticals for Patient #9 which was filled on two occasions, once in April 2014 and again in May 2014. These prescriptions were created and dispensed by Advantage Pharmacy. The Office of the State Comptroller, via CVS Caremark, paid Advantage Pharmacy over \$22,760 for the two (2) compound pharmaceutical prescriptions DR. GYAMBIBI wrote for Patient #9. Like Patient #8, DR. GYAMBIBI knew Patient #9 socially, but Patient #9 was not DR. GYAMBIBI'S patient. DR. GYAMBIBI neither examined Patient #9 nor took her medical history.

48. Between June 2014 and November 2014, DR. GYAMBIBI wrote prescriptions for compound pharmaceuticals for Patient #10 which were filled on seven (7) occasions. On six (6) of these occasions the prescriptions were created and dispensed by Advantage Pharmacy. The Office of the State Comptroller, via CVS Caremark, paid over \$46,349 for the compound pharmaceutical prescriptions DR. GYAMBIBI wrote for Patient #10.

**DEFENDANTS' ACTIONS CAUSED FALSE CLAIMS TO BE PRESENTED FOR
COMPOUND PRESCRIPTION DRUG SERVICES THAT WERE NOT MEDICALLY
NECESSARY AND/OR FAILED TO COMPLY WITH STATUTORY DOCUMENTATION
REQUIREMENTS**

49. "Claims for medically unnecessary treatment are actionable under [the Act]." *U.S. ex rel. Riley v. St. Luke's Episcopal Hosp.*, 335 F.3d 370, 376 (5th Cir. 2004) (footnote omitted).

50. As clearly stated in the Plan Document, the Office of the State Comptroller, via CVS Caremark, will only reimburse a pharmacy for "covered services." A prescription

must be both medically necessary and prescribed in a manner consistent with normal medical practices in order to be a covered service.

51. Between June 18, 2014 and March 3, 2015, DR. GYAMBIBI and KWASI GYAMBIBI violated the Act by knowingly causing false claims to be submitted and paid by the State pursuant to the Pharmacy Benefit Plan for medically unnecessary prescription compound drugs.

52. As a result of these practices, Defendants caused the Office of the State Comptroller, via CVS Caremark, to provide substantial reimbursements to Advantage Pharmacy for compound pharmaceutical prescriptions written by DR. GYAMBIBI

53. DR. GYAMBIBI wrote compound pharmaceutical prescriptions for many patients, which prescriptions were filled on numerous occasions, without any clinical justification, and for patients whom she never had a physician-patient relationship. She did not physically examine any of the patients. DR. GYAMBIBI did not make a medical diagnosis pertaining to any of the patients' condition which may have been treated by the prescriptions. She did not counsel the patients regarding other treatment options or potential side-effects. Indeed, she wrote the prescriptions without even talking to the vast majority of the individuals directly.

54. DR. GYAMBIBI did not conduct a review of any of the patients' medical histories to determine whether the patient was taking other medications that might cause the prescription to be ineffective or cause an adverse reaction. She did not identify a treatment plan or monitor the patient for adverse reactions or drug effectiveness.

55. The complete lack of medical records, aside from the prescriptions themselves, further evidences DR. GYAMBIBI'S failure to establish a clinical basis to issue the

prescriptions. All DR. GYAMBIBI knew about the vast majority of these individuals was that, according to her husband, the patient was willing to try the compound pharmaceutical products.

56. DR. GYAMBIBI'S decision to write prescriptions for compound prescription drugs for individuals with whom she never developed a physician-patient relationship and never examined fell considerably below the standard of care.

57. Likewise, the prescriptions written by DR. GYAMBIBI were not medically necessary. Returning to the illustrative examples of Patient #1 and Patient #2, DR. GYAMBIBI did not exercise prudent clinical judgment to determine that the prescriptions were clinically appropriate, in terms of type, frequency, extent, site and duration, for Patient #1 or Patient #2's respective illness, injury, or disease. As she did not even speak to Patient #1 or Patient #2, DR. GYAMBIBI clearly could not have determined the prescriptions should be provided to Patient #1 or Patient #2 for the purpose of preventing, evaluating, diagnosing or treating an illness, injury, disease or its symptoms. She did not make a clinical determination as to whether the respective prescriptions were considered effective for Patient #1 or Patient #2's respective illness, injury, or disease.

58. Moreover, given the high cost of the prescriptions, DR. GYAMBIBI obviously did not make any determination that the prescriptions for Patient #1 or Patient #2 were less costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic results as to the diagnosis or treatment of Patient #1 or Patient #2's respective illness, injury or disease.

59. A large number of the individuals for whom DR. GYAMBIBI prescribed compounded prescription drugs never used the creams. For instance, neither Patient #1 nor Patient #2 ever opened the packages sent to them by Advantage Pharmacy. Despite the fact that her "patients" never used the creams, DR. GYAMBIBI's "patients" received numerous and unsolicited prescription refills based on the initial prescriptions written by DR. GYAMBIBI. As outlined above, each prescription cost the State of Connecticut thousands of dollars.

60. DR. GYAMBIBI knew that it was material to the Office of the State Comptroller, via CVS Caremark, that a prescription written by a licensed physician was necessary in order for the Pharmacy Benefit Plan to reimburse Advantage Pharmacy for compound prescription drugs dispensed to the plan's members and that it was a foreseeable consequence of her writing the scripts that, in fact, Advantage Pharmacy was reimbursed for such prescriptions

61. Each defendant played an integral part in securing prescriptions to be filled by Advantage Pharmacy. KWASI GYAMBIBI had access to a pool of coworkers who were covered by the Pharmacy Benefit Plan. DR. GYAMBIBI had the authority to write prescriptions. In only nine months, the Office of the State Comptroller, via CVS Caremark, paid hundreds of thousands of dollars in false claims as a result of Defendants' illegal scheme.

CAUSES OF ACTION

COUNT 1

Connecticut State False Claims Act Conn. Gen. Stat. §§ 4-275(a)(1), (b)

PRESENTATION OF FALSE OR FRAUDULENT CLAIMS

62. The allegations of ¶¶1 — 61 of this Complaint are incorporated herein as allegations of Count 1 as if fully set forth herein. The STATE OF CONNECTICUT further alleges as follows.

63. The provisions of Conn. Gen. Stat. § 4-275(a)(1), prohibit knowingly causing the presentation of a false or fraudulent claim for payment or approval to a state-administered health or human services program.

64. Between June 13, 2014 and at least March 2015, KAKRA GYAMBIBI, MD and KWASI GYAMBIBI knowingly caused to be presented a false or fraudulent claim for payment or approval to a program administered by the State Comptroller's Office, a state-administered health or human services program.

65. KAKRA GYAMBIBI, MD and KWASI GYAMBIBI knowingly engaged in conduct that would, and did, result in the submission of false claims for payment by the State Comptroller's Office including claims for payments for prescriptions that were not covered services.

66. By virtue of the false or fraudulent claims caused to be made by KAKRA GYAMBIBI, MD and KWASI GYAMBIBI, the State has suffered damages.

67. KAKRA GYAMBIBI, MD and KWASI GYAMBIBI are jointly and severally liable to the State for treble damages under the Act, in an amount to be determined at trial, plus a civil penalty of \$5,500 to \$11,000, or as adjusted from time to time by the Federal Civil

Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, for each false claim caused to be presented by Defendants.

COUNT 2
Connecticut State False Claims Act
Conn. Gen. Stat. §§ 4-275(a)(2), (b)
FALSE RECORDS OR STATEMENTS

68. The allegations of ¶¶1 — 61 of this Complaint are incorporated herein as allegations of Count 2 as if fully set forth herein. The STATE OF CONNECTICUT further alleges as follows.

69. The provisions of Conn. Gen. Stat. § 4-275(a)(2), prohibit the knowing use of false records or statements to secure the payment of a false claim presented to a state-administered health or human services program.

70. Between June 13, 2014 and at least March 2015, KAKRA GYAMBIBI, MD and KWASI GYAMBIBI knowingly made or caused to be made false records or statements in the form of medically unnecessary prescriptions for compound pharmaceuticals that were used to secure the payment of a false claim presented to a state-administered health or human services program.

71. By virtue of the false records or statements made or caused to be made by KAKRA GYAMBIBI, MD and KWASI GYAMBIBI, the State has suffered damages.

72. KAKRA GYAMBIBI, MD and KWASI GYAMBIBI are jointly and severally liable to the State for treble damages under the Act, in an amount to be determined at trial, plus a civil penalty of \$5,500 to \$11,000, or as adjusted from time to time by the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, for each false record or statement made that caused a false claim to be paid by a state-administered health or human services program..

COUNT 3
Connecticut State False Claims Act
Conn. Gen. Stat. §§ 4-275(a)(3), (b)
CONSPIRACY

73. The allegations of ¶¶1 — 61 of this Complaint are incorporated herein as allegations of Count 3 as if fully set forth herein. The STATE OF CONNECTICUT further alleges as follows:

74. The provisions of Conn. Gen. Stat. § 4-275(a)(3), prohibit conspiring to commit false claims violations.

75. By virtue of the acts between June 13, 2014, and at least March 2015, described above, Defendants KAKRA GYAMBIBI, MD and KWASI GYAMBIBI have conspired to defraud the State by committing the false claims violations, in the manner pleaded above.

76. By virtue of their conspiracy to commit false claims violations, KAKRA GYAMBIBI, MD and KWASI GYAMBIBI have caused the State to suffer damages.

77. Defendants are jointly and severally liable to the State for treble damages under the Act, in an amount to be determined at trial, plus a civil penalty of \$5,500 to \$11,000, or as adjusted from time to time by the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, for each false record or statement or claim caused to be presented by Defendants.

PRAYER FOR RELIEF

WHEREFORE, pursuant to Conn. Gen. Stat. § 4-275(b), the STATE OF CONNECTICUT requests the following relief:

78. A civil penalty of not less than five thousand five hundred dollars or more than eleven thousand dollars, or as adjusted from time to time by the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, and for each violation of the Act;

79. Three times the amount of damages that the State of Connecticut sustained because of the acts of Defendants, jointly and severally;

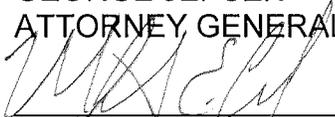
80. Costs of investigation and prosecution of this action; and

81. Such other relief as is just and equitable to effectuate the purposes of this action.

Dated at Hartford, Connecticut, this 2nd day of February, 2017.

PLAINTIFF STATE OF CONNECTICUT

BY: GEORGE JEPSEN
ATTORNEY GENERAL



Michael E. Cole (Juris #417145)
Assistant Attorney General
Chief, Government Program Fraud Department
55 Elm Street, P.O. Box 120
Hartford, CT 06141-0120
Tel: (860) 808-5040/Fax: (860) 808-5033
Email: Michael.cole@ct.gov



Robert B. Teitelman (Juris #085053)
Assistant Attorney General
55 Elm Street, P.O. Box 120
Hartford, CT 06141-0120
Tel: (860) 808-5040/Fax: (860) 808-5391
Email: Robert.Teitelman@ct.gov