

# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

## PUBLIC HEALTH HEARING SECTION

June 20, 2012

Robban Sica, MD  
37 Lake Wood Drive  
Trumbull, CT 06611

**Certified Mail RRR #91-7108-2133-3936-6420-2730**

Matthew Antonetti, Principal Attorney  
Department of Public Health  
410 Capitol Avenue, MS #12LEG  
PO Box 340308  
Hartford, CT 06134-0308

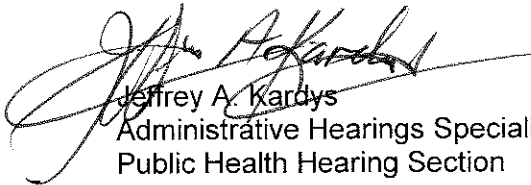
**VIA EMAIL**

**RE: Robban Sica, MD – Petition No. 2007-0227-001-030**

Dear Dr. Sica and Attorney Antonetti:

Enclosed please find a copy of the Memorandum of Decision issued by the **Connecticut Medical Examining Board** in the above-referenced matter.

Sincerely,



Jeffrey A. Kardys  
Administrative Hearings Specialist/Board Liaison  
Public Health Hearing Section

c: Jewel Mullen, MD, MPH, MPA, Commissioner, Department of Public Health  
Kerry Colson, Assistant Attorney General  
Wendy Furniss, Branch Chief, Healthcare Systems  
Jennifer Filippone, Section Chief, Practitioner Licensing and Investigations  
Lynn A. Rioux, Paralegal Specialist II, Office of the Attorney General  
Bonnie Pinkerton, RN, Nurse Consultant, Department of Public Health  
David Tilles, Staff Attorney, Department of Public Health

Phone: **860-509-7648** **FAX 860-509-7553**



Telephone Device for the Deaf: (860) 509-7191  
410 Capitol Avenue - MS # **13 PHO**  
P.O. Box 340308 Hartford, CT 06134

*Affirmative Action / An Equal Opportunity Employer*

**STATE OF CONNECTICUT  
CONNECTICUT MEDICAL EXAMINING BOARD**

Robban Sica, M.D.  
License No.: 026453

Petition No. 2007-0227-001-030

**MEMORANDUM OF DECISION**

*Procedural Background*

On March 24, 2010, the Department of Public Health (“the Department”) presented a Statement of Charges (“Charges”) to the Connecticut Medical Examining Board (“the Board”) naming Robban Sica, M.D., who holds Connecticut medical license # 026453, as respondent (“respondent”). Board Exh. 1. The Charges allege that the respondent’s license is subject to disciplinary action pursuant to the General Statutes of Connecticut (the Statutes) §§ 20-13c(4). Board Exh. 1.

On July 6, 2010, the Charges and Notice of Hearing were mailed to the respondent via certified mail, return receipt requested. Board Exh. 3. The Notice of Hearing directed the respondent to appear before a duly authorized panel of the Board on August 31, 2010 for a hearing on the allegations contained in the Charges. Board Exh. 3. The Panel consisted of C. Steven Wolf, M.D., Denise Ward, RPT., and Harold Hebb. Board Exh. 3.

On August 11, 2010, the respondent filed a Motion for Continuance. On August 13, 2010, the Motion was granted. Board Exh. 7. On October 7, 2010, the hearing was scheduled for January 31, 2011. Board Exh. 8.

On January 27, 2011, the respondent filed an Answer to the Charges. Board Exh. 2.

The hearing convened on January 31, March 14, and April 26, 2011. Attorney Andrea G. Ferrenz represented respondent; Attorney David Tilles represented the Department. The Panel conducted the hearing in accordance with Chapter 54 of the Statutes (the Uniform Administrative Procedure Act), and § 19a-9-1 of the Regulations of Connecticut State Agencies. Both parties had the opportunity to present evidence, conduct cross-examination, and provide argument on all issues.

All Panel members involved in this decision received copies of the entire record and attest that they either heard the case or read the record in its entirety. The Board reviewed the Panel’s proposed final decision in accordance with the provisions of § 4-179 of the Statutes. The

Board considered whether the respondent poses a threat, in the practice of medicine, to the health and safety of any person. This decision is based entirely on the record and the specialized professional knowledge of the Panel in evaluating the evidence. To the extent the findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *SAS Inst., Inc., v. S & H Computer Systems, Inc.*, 605 F.Supp. 816 (Md. Tenn. 1985).

### *Allegations*

1. Paragraph 1 of the Charges alleges that respondent is, and has been at all times referenced in the Charges, the holder of license number 026453 to practice as a physician and surgeon in Connecticut.
2. Paragraph 2 of the Charges alleges that on January 31, 2005, the Connecticut Medical [Examining] Board ordered a Consent Order in Petition Number 2002-0306-001-043 that restricted respondent's license such that respondent shall not use Dimercapto Propane Sulfonic Acid (hereinafter "DMPS") for any purpose until such time as the United States Food and Drug Administration or the Connecticut Department of Consumer Protection approves its use or until its effectiveness and safety have been demonstrated by scientifically controlled and published human studies and then only for the specific conditions studied and at the doses found effective and safe in said studies.
3. Paragraph 3 of the Charges alleges that respondent treated patient B.S. from on or about August 8, 2006 through on or about December 1, 2006. Respondent diagnosed a variety of conditions, which she treated with intravenous and transdermal chelators, including DMPS.
4. Paragraph 4 of the Charges alleges that in addition to prescribing DMPS for patient B.S., respondent prescribed DMPS for ten patients between on or about March 14, 2005 and on or about February 26, 2007.
5. Paragraph 5 of the Charges alleges that respondent's conduct as described above constitutes a violation of the permanent restriction on her license set forth in the consent order in Petition Number 2002-0306-001-043 and subjects respondent's license to revocation or other disciplinary action authorized by §§ 19a-17 and 20-13c(4) of the Statutes.

### *Findings of Fact*

1. Respondent is, and has been at all times referenced in the Charges, the holder of license number 026453 to practice as a physician and surgeon in Connecticut. Board Exh. 2, p. 1.
2. On January 31, 2005, the respondent executed the Consent Order in Petition No. 2002-0306-001-043 (hereinafter "Consent Order"), which was presented to and accepted and ordered by the Board on February 15, 2005. The Consent Order restricted the

- respondent's license such that respondent shall not use DMPS for any purpose until such time as the United States Food and Drug Administration or the Connecticut Department of Consumer Protection approves its use or until its effectiveness and safety have been demonstrated by scientifically controlled and published human studies and then only for the specific conditions studied and at the doses found effective and safe in said studies. The Consent Order became effective on March 1, 2005. Dept. Exh. 1.
3. DMPS is a chelating agent used to treat heavy metal toxicity, including mercury. Tr., 1/31/11, p. 100; Dept. Exh. 14, 15; Resp. Exhs. 4, 25.
  4. DMPS is not approved by the United States Food and Drug Administration or the Connecticut Department of Consumer Protection. DMPS's effectiveness and safety have not been demonstrated by scientifically controlled and published human studies for any specific conditions, except for early treatment of patients for very, very large exposure to mercury. Dept. Exhs.12-15; Resp. Exhs. 9, 25, 36; Tr. 1/31/11, pp. 100-104.
  5. There are no scientifically controlled and published human studies concerning the absorption of DMPS through the skin. Tr. 1/31/11, pp. 100, 101.
  6. The eleven patients that are the subject of the Charges did not receive early treatment from the respondent for very, very large exposure to mercury. Tr. 3/14/11, pp. 216, 271; Resp. Exhs. 13-17 (sealed), 19 (sealed), 20 (sealed), 22 (sealed), 23 (sealed), 27 (sealed), 29-35 (sealed), 41.
  7. Respondent treated patient B.S. from August 7, 2006 through December 6, 2006. Respondent diagnosed a variety of conditions, which she treated with intravenous and transdermal chelators, including DMPS. Dept. Exh. 2 (sealed); Dept. Exhs. 3-6; Dept. Exh. 7 (sealed); Dept. Exhs. 8-11, 17; Resp. Exhs. 23, 41; Tr. 4/26/11, pp. 77-92, 100, 101.
  8. After the effective date of the Consent Order, respondent prescribed transdermal DMPS ("TD-DMPS") to ten patients between March 14, 2005 and February 26, 2007. Dept. Exhs. 2, p. 4; Dept. Exh. 11; Resp. Exh. 13, pp. 7-9 (sealed); Dept. Exh. 14, pp. 7, 9, 10 (sealed); Resp. Exh. 15, pp. 15, 27, 28, 31(sealed); Resp. Exh. 16 (sealed); Resp. Exh. 17, p. 5 (sealed); Resp. Exh. 19, p. 5 (sealed); Resp. Exh. 20, pp. 6, 10 (sealed); Resp. Exh. 22, pp. 3-5, 7 (sealed), Resp. Exh. 23 (sealed); Resp. Exh. 27, pp. 1, 9, 11, 12, 33, 35-37 (sealed), Resp. Exh. 29, pp. 1-3 (sealed); Resp. Exh. 30, pp. 2, 3, 5, 6 (sealed); Resp. Exh. 31, p. 4 (sealed); Resp. Exh. 32, pp. 2-4 (sealed); Resp. Exh. 33, p. 5-7, 10, 12 (sealed); Resp. Exh. 34, pp. 1-4, 7, 8, 12, 15-17, 20, 22 (sealed); Resp. Exh. 35, pp. 5, 9, 10, 14, 18 (sealed); Resp. Exh. 41; Tr. 3/14/11, pp. 233-238, 242-247; Tr. 4/26/11, pp. 47-92, 101-132.
  9. Dr. Sica's testimony is not credible. Tr. 3/14/11, pp. 209-253; Tr. 4/26/11, pp. 23-162.

### *Discussion and Conclusions of Law*

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Steadman v. Securities and Exchange Commission*, 450 U.S. 91, 101 S.Ct. 999, *reh'g denied*, 451 U.S. 933 (1981); *Goldstar Medical Services, Inc., et al. v. Department of Social Services*, 288 Conn. 790 (2008); *Swiller v. Commissioner of Public Health*, CV 970573367, Superior Court, judicial district of Hartford-New Britain at Hartford, Docket No. 705601 (October 10, 1995, *Hodgson, J.*)

Section 19a-10 of the Connecticut General Statutes provides in pertinent part, “[B]oards . . . may conduct hearings on any matter within their statutory jurisdiction. Such hearings shall be conducted in accordance with chapter 54 and the regulations established by the Commissioner of Public Health.”

Pursuant to § 20-13c(4) of the Statutes, “the [B]oard is authorized to restrict, suspend, or revoke the license or limit the right to practice of a physician or take any other action in accordance with section 19a-17, for . . . (4) illegal, incompetent or negligent conduct in the practice of medicine.” The Board finds that the Department met its burden of proof with respect to allegations contained in paragraphs 1 through 4 of the Charges.

With regard to paragraph 1 of the Charges, the respondent admits that she is the holder of Connecticut physician and surgeon license number 026453. Board Exh. 2, p. 1.

With regard to paragraph 2 of the Charges, the Consent Order ordered and accepted by the Board in Petition 2002-0306-001-043 restricted the respondent’s license such that the respondent shall not use DMPS for any purpose until such time as the United States Food and Drug Administration or the Connecticut Department of Consumer Protection approves its use or until its effectiveness and safety have been demonstrated by scientifically controlled and published human studies and then only for the specific conditions studied and at the doses found effective and safe in said studies. Dept. Exh. 1, pp. 1-9. Thus, the Department sustained its burden of proof with respect to paragraph 2 of the Charges by a preponderance of the evidence.

With regard to paragraph 3 of the Charges, a preponderance of the evidence establishes that the respondent treated B.S. from on or about August 7, 2006 through on or about December 6, 2006, that the respondent diagnosed BS with a variety of conditions and treated BS with intravenous and transdermal chelators, including DMPS. Dept. Exh. 2 (sealed); Dept. Exh. 3-6; Dept. Exh. 7 (sealed); Dept. Exhs. 8-11, 17; Resp. Exhs. 23, 41; Tr. 4/26/11, pp. 77-92, 100, 101.

In her defense, the respondent contends that she recommended transdermal EDTA for patient B.S., but as a result of an office error, transdermal DMPS ("TD-DMPS") was phoned into AMT Pharmacy. Dept. Exh. 2, p. 2, (sealed); Dept. Exh. 3, pp. 2, 3; Dep. Exhs. 4, 5; Dept. Exh. 7 (sealed); Dept. Exh. 8, p. 5; Dept. Exh. 10, pp. 2, 3; Dept. Exh. 11, p. 5; Board Exh. 2, pp. 2-7; Tr. 4/26/11, pp. 86-90. Upon discovery of the office error made on September 7, 2006, the respondent claims that she recommended B.S. discontinue use of the TD-DMPS. Dept. Exh. 2, pp. 1, 44, 53, 55, 56, 59, 61 (sealed); Dept. Exhs. 8, p. 5; Dept. Exh. 9; Dept. Exh. 10; Board Exh. 2, p. 1; Tr., 4/26/11, pp. 80-83. The respondent is not credible in this regard. The Department sustained its burden with respect to paragraph 3 of the Charges.

With regard to paragraph 4 of the Charges, the Department sustained its burden of proof by a preponderance of the evidence that respondent prescribed DMPS for BS and ten other patients from March 14, 2005 through February 26, 2007. Dept. Exh. 2, p. 2 (sealed); Respondent admits to prescribing DMPS for seven patients: MM, JHS, and WT on September 8, 2006; KW on September 27, 2006; JL on October 3, 2006; AS on October 6, 2006; and, TC on November 17, 2006 after the effective date of the Consent Order. Board Exh. 2, p. 4. Respondent contends that the prescription for JS, her husband, was filled for office use and testing, and that JM and LW were prescribed TD-DMPS in 2004, prior to the execution of the Consent Order and that such prescriptions, therefore, should not constitute a violation of the Consent Order. Board Exh. 2, p. 4.

With respect to JM, respondent claims that although JM was prescribed TD-DMPS commencing in 2004, JM's continued treatment with TD-DMPS, after the effective date of the Consent Order, was ordered by Kim Allen, a Physician's Assistant from Massachusetts, but the pharmacy continued to put respondent's name on the prescriptions. Tr. 3/14/11, pp. 235-244; Tr. 4/26/11, pp. 9-15, 24-30, 39-43; Dept. Exh. 2, p. 4. The respondent's prescription of TD-DMPS for JM on November 22, 2004, however, was filled as "PRN," which allows the prescription to be refilled when the patient needs it. Resp. Exh. 15, p. 28 (sealed); Tr. 3/14/11, pp. 233-235; Tr. 4/26/11, pp. 31-36. There is no evidence that such prescription was ever retracted by respondent. The Board does not find the respondent testimony in this regard to be credible. Tr. 4/26/11, pp. 30-33; Resp. Exhs. 15, 29 (sealed).

With respect to LW, respondent claims that the last time she saw LW was on August 9, 2004, and that the last prescription for TD-DMPS for LW was called in on September 9, 2004,

prior to the effective date of the Consent Order. Rec. Exh. 2, p. 4; Tr. 3/14/11, pp. 244- 247. Again, the respondent's prescription of TD-DMPS for LW on September 9, 2004 was filled as "PRN," allowing the prescription to be refilled as-needed by the patient. Dept. Exh. 22, pp. 3, 5. There is no evidence that such prescription was ever retracted by respondent. The Board does not find the respondent's testimony in this regard to be credible. Tr. 4/26/11, pp. 30-33; Resp. Exhs. 15, 29 (sealed).

The respondent also claims that JS's prescription for TD-DMPS was for office use and testing only. The record is void of any evidence in support of this claim. The Board finds the respondent's testimony in this regard not to be credible.

The Board finds that in addition to the seven patients for whom respondent admits to prescribing TD-DMPS, a preponderance of the evidence establishes that the respondent also prescribed TD-DMPS for JS, JM and LW.

As to paragraph 5 of the Charges, the Board finds that the respondent's conduct violated the terms of the Consent Order. The Board finds that DMPS has not been approved by the United States Food and Drug Administration (US FDA) or the Connecticut Department of Consumer Protection (CT DCP). The state's expert, Dr. Charles McKay testified that there are no scientifically controlled studies that would support the use of DMPS, including transdermal DMPS, to treat the respondent's patients. The Board further finds that DMPS's effectiveness and safety have not been demonstrated by scientifically controlled and published human studies to treat the patients at issue in the Charges as these patients were not patients treated early for extremely large amounts of metal toxicity.

The Board does not find the respondent's arguments that her use of TD-DMPS for these patients was permissible under the Consent Order. Specifically, she claims that:

1. prior to the Consent Order she used DMPS in oral and intravenous form, and that after the Consent Order she used DMPS in transdermal form; Tr. 4/26/11, pp. 95, 96.
2. DMPS in its transdermal form is a compounded drug, and therefore is a lawful product for physicians to prescribe; and, Dept. Exhs. 12, 13; Board Exh. 2; Tr. 3/14/11, pp. 249-252; Resp. Exhs. 1, 11, pp. 224-28, 247-49, 251, 252.

3. the efficacy and safety of TD-DMPS qualifies her use of DMPS as permissible in accordance with the Consent Order. Resp. Exhs. 9, 25; Tr. 3/14/11, pp. 224-28, 247-49.

The Consent Order prohibits the use of DMPS for any purpose without regard to the method of administration, absent US FDA or CT DCP approval or scientifically controlled and published human studies supporting DMPS effectiveness and safety and then only for the specific conditions studied and at the doses found effective and safe in said studies. There is no dispute that DMPS has not been approved by the US FDA or the CT DCP to treat metal toxicity. A drug is not considered approved by the US FDA or the CT DCP simply because it is compounded. Dept. Exhs. 12, 13. The evidence submitted by respondent in support of the efficacy and safety of TD-DMPS is deemed anecdotal and does not satisfy the requirements of the Consent Order. Resp. Exhs. 10, 11, 25, 36.

Based on the foregoing, the Board thus finds that the respondent's use of DMPS violates the terms of the Consent Order and § 20-13c(4) of the Statutes and subjects the respondent's license to disciplinary action under Conn. Gen. Stat. §§ 19a-17.

#### *Order*

Based upon the record in this case, the above findings of fact and the conclusions of law, and pursuant to the authority vested in it by §§ 19a-17 and 20-13c of the Statutes, the Board finds that the misconduct alleged and proven is severable and warrants the disciplinary action imposed by this order.

In the case of Robban Sica, M.D., Petition No. 2007-0227-001-030, who holds Connecticut physician license number 026453, the Board orders:

1. Respondent's license number 026453 to practice as a physician and surgeon in the State of Connecticut is hereby SUSPENDED for one month and placed on probation for two years based upon her care and treatment of patient BS, and respondent is assessed a civil penalty of seven hundred dollars (\$700.00); and,
2. Respondent's license number 026453 to practice as a physician and surgeon in the State of Connecticut is hereby SUSPENDED for one month and placed on probation for two years based upon her care and treatment of patient MM, and respondent is assessed a civil penalty of seven hundred dollars (\$700.00); and,



3. Respondent's license number 026453 to practice as a physician and surgeon in the State of Connecticut is hereby SUSPENDED for one month and placed on probation for two years based upon her care and treatment of patient JHS, and respondent is assessed a civil penalty of seven hundred dollars (\$700.00); and,
4. Respondent's license number 026453 to practice as a physician and surgeon in the State of Connecticut is hereby SUSPENDED for one month and placed on probation for two years based upon her care and treatment of patient WT, and respondent is assessed a civil penalty of seven hundred dollars (\$700.00); and,
5. Respondent's license number 026453 to practice as a physician and surgeon in the State of Connecticut is hereby SUSPENDED for one month and placed on probation for two years based upon her care and treatment of patient KW, and respondent is assessed a civil penalty of seven hundred dollars (\$700.00); and,
6. Respondent's license number 026453 to practice as a physician and surgeon in the State of Connecticut is hereby SUSPENDED for one month based upon her care and treatment of patient JL, and respondent is assessed a civil penalty of seven hundred dollars (\$700.00); and,
7. Respondent's license number 026453 to practice as a physician and surgeon in the State of Connecticut is hereby SUSPENDED for one month and placed on probation for two years based upon her care and treatment of patient AS, and respondent is assessed a civil penalty of seven hundred dollars (\$700.00); and,
8. Respondent's license number 026453 to practice as a physician and surgeon in the State of Connecticut is hereby SUSPENDED for one month and placed on probation for two years based upon her care and treatment of patient TC, and respondent is assessed a civil penalty of seven hundred dollars (\$700.00); and,
9. Respondent's license number 026453 to practice as a physician and surgeon in the State of Connecticut is hereby SUSPENDED for one month and placed on probation for two years based upon her care and treatment of patient JS, and respondent is assessed a civil penalty of seven hundred dollars (\$700.00); and,
10. Respondent's license number 026453 to practice as a physician and surgeon in the State of Connecticut is hereby SUSPENDED for one month and placed on probation for two

years based upon her care and treatment of patient JM, and respondent is assessed a civil penalty of seven hundred dollars (\$700.00); and,

11. Respondent's license number 026453 to practice as a physician and surgeon in the State of Connecticut is hereby SUSPENDED for one month and placed on probation for two years based upon her care and treatment of patient LW, and respondent is assessed a civil penalty of seven hundred dollars (\$700.00); and
12. The suspensions outlined above shall run concurrently for a total period of one (1) month beginning on the first day of the next month following the execution of this Decision.
13. Following said suspension, the probations outlined above shall run concurrently for a total period of two (2) years under the following terms and conditions:
  - a. Respondent shall obtain at her own expense, the services of a physician board certified by the American Board of Internal Medicine and licensed in Connecticut, who is pre-approved by the Department ("monitor"), to conduct a quarterly review of all of respondent's records for patients being treated for chronic fatigue and/or chelated.
  - b. Respondent shall provide a copy of this Decision and the Consent Order to her monitor.
  - c. Respondent's monitor shall furnish written confirmation to the Department of his or her engagement in that capacity and receipt of a copy of the Decision and the 2005 Consent Order within fifteen (15) days of receipt.
  - d. Respondent's monitor shall meet with her not less than once every month for the first year of her probationary period and quarterly for the remainder of the probationary period.
  - e. The monitor shall have the right to monitor respondent's practice by any other reasonable means which he or she deems appropriate. Respondent shall fully cooperate with the supervisor in providing such monitoring.
  - f. Respondent shall be responsible for providing written monitor reports directly to the Department quarterly for the term of the probationary period. Such monitor's reports shall include documentation of dates and durations of meetings with respondent, number and a general description of the patient records and patient medication orders and prescriptions reviewed, additional monitoring techniques

utilized, and a statement that respondent is practicing with reasonable skill and safety.

14. Respondent shall pay a civil penalty totaling seven thousand seven hundred dollars (\$7,700.00) by certified or cashier's check payable to "Treasurer, State of Connecticut." The check shall reference the Petition Number on the face of the check, and shall be payable within thirty days of the effective date of this Decision.
15. All correspondence related to this Memorandum of Decision and payment of the civil penalty must be mailed to:

Bonnie Pinkerton, Nurse Consultant  
Department of Public Health  
Division of Health Systems Regulation  
410 Capitol Avenue, MS #12HSR  
P.O. Box 340308  
Hartford, CT 06134-0308

16. All restrictions, terms, and conditions imposed by the Consent Order for Petition Number 2002-0306-001-043 remain in effect.

This Memorandum of Decision is effective on upon signature of the Chairperson.

June 19, 2012  
Date

Anne C. Doremus  
By: Anne Doremus, Chairperson

**CERTIFICATION**

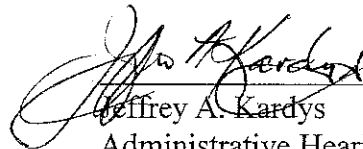
I hereby certify that, pursuant to Connecticut General Statutes § 4-180(c), a copy of the foregoing Memorandum of Decision was sent this 20<sup>th</sup> day of JUNE 2012, by certified mail, return receipt requested to:

Robban Sica, MD  
37 Lake Wood Drive  
Trumbull, CT 06611

Certified Mail RRR #91-7108-2133-3936-6420-2730

and via email to:

Matthew Antonetti, Principal Attorney  
Legal Office  
Department of Public Health  
410 Capitol Avenue, MS #12LEG  
Hartford, CT 06134-0308



Jeffrey A. Kardys

Administrative Hearings Specialist/Board Liaison  
Department of Public Health  
Public Health Hearing Office