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Controversial Dr. Rajko Medenica Sued By Patient; Hilton Head Hospital Reviews His Practices

Rajko Medenica, a controversial Hilton Head, SC, physician whose healing talents are lauded by well-connected patients but rarely published in peer reviewed literature, is facing a civil suit stemming from management of a node negative breast cancer patient.

The suit alleges that Medenica inappropriately used the drug mitomycin-C to treat the patient, failing to monitor her kidney functions and causing hemolytic uremic syndrome.

At the same time, Hilton Head Hospital is conducting a peer review of Medenica's practices and credentials. Recently, Medenica requested a six-month leave of absence from the hospital.

The suit, filed in the Beaufort County Court of Common Pleas last month, as well as the hospital's peer review have opened questions about the veracity of credentials listed on Medenica's curriculum vitae and the patient brochures published by his clinic.

According to a CV dated February 1989 and a brochure published by his clinic in 1988, Medenica states that he has trained at, collaborated with, or
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In Brief

Breast Cancer Coaliton Plans Rally, Conference; FDA Seeks Information On Unlabeled Drug Uses

NATIONAL BREAST CANCER Coalition will hold a rally and conference May 2-4 in Washington, DC, to press for increased funding for breast cancer research. NBCC intends to generate 2.6 million signatures this year in support of declaring breast cancer a national health emergency. The coalition plans to present the signatures to President Clinton in October. The rally is scheduled for 1-3 p.m. May 2 near the Capitol. The conference will be held at 8:45 a.m.-5 p.m. May 3, at George Washington Univ. On May 4, participants will visit their congressional delegations. . . . FOOD & DRUG Administration is asking medical specialty organizations for assistance in identifying significant unlabeled uses of approved drugs that are supported by studies. A letter, planned for several months, will be mailed to medical groups this week, said Peter Rheinstein, director of the Medicine Staff in FDA's Office of Health Affairs. Comments may be sent to Rheinstein at FDA, Room 15A08, 5600 Fishers Ln., Rockville, MD 20857. . . . INSTITUTE OF MEDICINE committee advising the Dept. of Defense on FY93 breast cancer appropriations will submit its report to the Army's Maj. Gen. Richard Travis on April 30. . . . CLARIFICATION: The National Coalition for Cancer Research endorsed the statement of the Cancer Leadership Council on Health Care Reform, not a statement of the National Coalition for Cancer Survivorship, as reported in **The Cancer Letter**, April 16. NCCS coordinates the Council, comprised of six cancer organizations besides NCCS.

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consulted for a number of U.S. institutions, including NCI, Mayo Clinic, Memorial Sloan-Kettering Cancer Center, the Dana-Farber Cancer Institute and M.D. Anderson Cancer Center.

According to documents obtained by **The Cancer Letter** and described and quoted below, Medenica's ties with several of these institutions did not appear to involve formal training or other types of collaboration customarily included in a CV and, consequently, in materials presented to patients. Over the years at least one institution--Mayo Clinic--stated in a series of letters to Medenica that his continued use of its name was inappropriate. Medenica has consulted for Roswell Park Cancer Institute, but that relationship involved neither clinical privileges nor formal medical training, Roswell Park officials said.

The Cancer Letter did not attempt to verify all of Medenica's credentials. His 1989 CV was the most recent version of the document that could be obtained by a reporter.

In a 1991 interview with **The Clinical Cancer Letter**, Medenica said he sees 80 new patients a year, nearly all of whom have failed treatment elsewhere. In that interview, Medenica said he achieved response in 78 percent of these patients, including 37 percent complete responses (**The Clinical Cancer Letter**, February 1991).

Medenica has treated the former heavyweight boxing champion Muhammad Ali, former ambassador to South Korea Richard Walker, and Sue West, the daughter-in-law of John West, former South Carolina governor and former ambassador to Saudi Arabia. Medenica has said he was involved in treatment of the late Yugoslavian president Josip Broz Tito, the late Soviet president Leonid Brezhnev and the late Shah of Iran.

Ali has called Medenica "the greatest doctor of all

times." Walker has called him "the Michelangelo of the cancer world." The doctor has been the subject of a profile on "20/20," an NBC news program. His U.S. citizenship oath was administered by Sen. Ernest Hollings (D-SC), and his honors include the Order of the Palmetto, South Carolina's highest award, conferred in 1989 by Gov. Carroll Campbell.

Besides Medenica, defendants in the suit include his testing laboratory, the plaintiff's internist Frank Hart, Hilton Head Hospital, the hospital pharmacist and the chairman of the hospital's board of directors. The complaint does not specify the amount of monetary damages sought.

After being contacted by **The Cancer Letter** with a list of questions and a summary of materials that included an identification of documents being used in this story, Medenica's attorneys David Brown and F. Lee Bailey issued a statement:

"Dr. Medenica wishes to express his appreciation for the interest of the press in this lawsuit.

"At the same time, he recognizes that the court is the only forum in which the [plaintiff's] claims can be subjected to a full and searching examination, consistent with the rights and privileges guaranteed under the Constitution and laws of the United States.

"To attempt to respond to the unproved allegations made by the plaintiffs in any other setting would be inappropriate. The attempt of plaintiffs to air their alleged grievances in the press after the filing of this lawsuit is in direct opposition to the right of Dr. Medenica to a fair and impartial trial and is currently the subject of a motion filed with the court for a ruling.

"There will be no further comment to the press by Dr. Medenica as long as this matter is before the court."

After filing the complaint, plaintiff's attorneys commented on the case to the Hilton Head "Island Packet," and, subsequently, to **The Cancer Letter**.

In an earlier statement, the hospital denied any wrongdoing. Hospital sources said to **The Cancer Letter** that peer review of Medenica's credentials and clinical practices began before the suit was filed and was not connected with the litigation.

According to hospital sources, peer review will continue during Medenica's leave of absence, which is expected to begin June 1 and end Dec. 31. Medenica will not be restricted in treating patients in his clinic, located next door to the hospital, sources said.

Central to the claim against Medenica is a confidential peer review document evaluating the treatment of the plaintiff.

The report, prepared by Howard Ozer, chief of the Div. of Medical Oncology of the Univ. of North Carolina Lineberger Comprehensive Cancer Center, was commissioned by Hilton Head Hospital. Technically, under South Carolina law, such reports are confidential

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and not subject to the process of discovery in civil litigation.

However, a copy of Ozer's report mysteriously appeared in the plaintiff's attorney's mailbox. It arrived in an envelope without a return address and with an Atlanta postmark, plaintiff's attorney Terry Finger said to **The Cancer Letter**.

Attorneys for both Medenica and the hospital have filed motions to rule the document inadmissible in court.

In his report, Ozer argues that Medenica made an inappropriate decision to use mitomycin-C to treat a 34-year-old woman with node negative breast cancer who had undergone a modified radical mastectomy.

"The addition of mitomycin-C, although the agent can work in refractory breast cancer, in the adjuvant setting is totally inappropriate and carries a 5 to 15% risk of causing HUS," he wrote.

After HUS set in, Medenica performed a multitude of tests on the patient's bone marrow, but failed to diagnose the syndrome, Ozer wrote.

"I find this level of testing on [the patient's] bone marrow at this point in her history to be beyond bizarre," Ozer wrote. "It is clear at this point that Dr. Medenica does not realize what he's dealing with."

The patient was flown to Duke University, where she underwent five months of treatment, the complaint said.

The text of Ozer's review of the plaintiff's treatment appears on page 7 of this newsletter.

The Suit

Since Hilton Head is a small place, the participants in the case are interconnected in a dizzying variety of ways.

To begin with, the plaintiff, Gayle Taylor, is the wife of Thomas Taylor, chairman of the Beaufort County Council, and, until recently, a partner in the law firm of Bethea, Jordan and Griffin.

William Bethea, a principal in that firm, is chairman of the board of directors of Hilton Head Hospital. Recently, the firm was joined by former South Carolina governor John West, one of Medenica's key supporters.

In June 1991, Gayle Taylor underwent a mastectomy and was referred to Medenica, who was identified to the Taylors as the hospital's staff oncologist, the complaint states.

"I was told that Medenica was the best in the world," Thomas Taylor said to **The Cancer Letter**. "All of my close friends at the law firm strenuously recommended him, saying this is the only person who should be treating Gayle."

Before treatment began, Taylor said he signed a document assuming obligation for all expenses not reimbursed by his insurance company. After treatment began, the Taylors' insurer, Provident Life & Accident Insurance Co., refused to pay the bills for the tests ordered by Medenica and performed in his laboratory.

Altogether, unreimbursed testing amounted to about \$20,000, sources said.

Taylor wrote a letter informing Provident that unless reimbursement was provided, he would sue.

The company saw no value in the multitude of tests run by the Hilton Head physician, Christine Parker, the company's assistant vice president and medical director said to **The Cancer Letter**.

Even before receiving Taylor's threat, the insurer asked Grace Monaco, director of the Medical Ombudsman Program, a Washington, DC, consulting firm, to arrange a confidential expert review of Gayle Taylor's treatment. Monaco contacted three oncologists, two of them breast cancer specialists. The three wrote that Medenica's tests appeared excessive and the treatment unorthodox. Copies of their reviews were obtained by **The Cancer Letter**.

Meanwhile, Medenica continued the treatment, and Gayle Taylor's condition continued to deteriorate, Thomas Taylor said. On Feb. 25, 1992, Thomas Taylor and the internist Hart started placing calls to major cancer centers. The first specialist they reached was Jon Gockerman of Duke Univ., Taylor said.

According to Taylor, "Dr. Gockerman said, 'What in the world was she given mitomycin-C for?' He diagnosed her correctly in a matter of minutes over the phone."

"After Gayle was flown to Duke, Dr. Gockerman told us to get her family there to say goodbye. She was already that sick," Taylor said.

According to the complaint, Gayle Taylor stayed in the hospital for five months, until late July. Though living at home and not on dialysis, she lost about 90 percent of her kidney function and sustained damage to other internal organs, the complaint states. Gockerman declined to be interviewed by **The Cancer Letter**.

In the fall of 1992, Thomas Taylor started to make inquiries into Medenica's practices and background.

"When I began asking questions, I began with my senior law partner, who was chairman of the board of the hospital," Taylor said to **The Cancer Letter**. "I was told that this issue is being looked at confidentially by the hospital, and that was all I could be told."

"I was also told that if I had in mind any action against the hospital, I would have to find another place to practice law."

In September, Gayle Taylor hired Finger, a Hilton Head attorney, to represent her in the case, and in January 1993, her husband left Bethea, Jordan & Griffin and joined Finger in his practice.

Their first action was to request a settlement from Medenica and the hospital. After that overture was declined, the two filed a suit, Taylor said.

Betha was out of the country, and a spokesperson for his firm declined to discuss the case with **The Cancer Letter**.

Stellar Connections

Over the years, John West has been Medenica's most important supporter.

The two met in 1981, after the governor's daughter-in-law, Sue West, was given a poor prognosis for her salivary gland cancer and sought treatment from Medenica, then practicing in Switzerland.

A year after Medenica started Sue West's treatment, the Swiss arrested him on charges of defrauding the health insurance system of his native Yugoslavia. In 1983, a Yugoslav court convicted Medenica in absentia.

Meanwhile, from a Swiss jail, Medenica continued to direct the treatment of Sue West and other patients. Ultimately, a judge in Geneva agreed to free Medenica on bail, and in February 1984, after 16 months in prison, Medenica came to the U.S. (**The Clinical Cancer Letter**, February 1991).

In an interview with **The Clinical Cancer Letter** Medenica acknowledged billing irregularities in his Swiss practice. However, those irregularities were part of an arrangement between members of the Swiss Socialist Party and the Yugoslav officials, involving President Tito personally, he said.

The arrangement allowed high-placed patients to receive treatment without incurring ramifications for their political careers. With consent from Swiss socialists, the expenses of such patients were transferred to the bills of patients who had Yugoslavian government authorization, Medenica said. The billing irregularities came to light after Tito's death in 1980 and concurrent changes in the Swiss government, Medenica said.

The Roswell Park Connection

Medenica's first job in the U.S. was at Roswell Park. Gerald Murphy, who at the time was the center's director, said to **The Cancer Letter** that Medenica was recommended to him by the late Frank Rauscher, former NCI director who at the time was vice president, research, of the American Cancer Society.

Roswell Park was in the midst of a crash program to develop interferon, and Medenica was one of the few people with first-hand knowledge of the European efforts to produce the agent, Murphy said.

Medenica's consulting arrangement with Roswell Park began in 1982, before his arrest by the Swiss authorities, and ended in 1986, after he started a practice in Hilton Head, center officials said.

Recently, responding to a letter from Hilton Head Hospital, Jerome Yates, Roswell Park's associate director for clinical affairs, wrote that Medenica's appointment at the cancer center "was not associated with any clinical privileges or with participation in any formal training here.

"[Medenica's] consultant status terminated in 1986, when Dr. Medenica failed to produce information on experiments he claimed to have done elsewhere," Yates

wrote in a letter dated Sept. 30, 1992.

"Over the course of the years since that time, Dr. Medenica supported a portion of a technician's time to conduct chemosensitivity studies on cancer specimens sent from South Carolina. This arrangement was terminated in early 1991.

"To the best of my knowledge, Dr. Medenica has never published any information in peer reviewed journals as a result of the collaborative investigations at the Institute, and a Medline search I conducted for the past ten years failed to yield any publications...

"...None of the present departmental leadership or other individuals queried who were present at the time of Dr. Medenica's visits to Roswell Park are prepared to support his claim of extensive collaborative activities with investigators at the Institute.

"[Medenica's] research credentials should be based on other activities conducted elsewhere. Any experience or training he has received here is informal and not to be considered the result of our ongoing formal training programs at the institute. His continued use of this past association to provide credibility for his clinical practices can best be characterized as an inappropriate exaggeration," Yates wrote.

Stellar Credentials

Medenica arrived in Hilton Head with great fanfare.

In July 1985, the Hilton Head Hospital "Monitor" announced that Medenica, a "world-renowned oncologist" had been admitted to active medical staff.

Medenica studied medicine at the Univ. of Belgrade, then moved to Switzerland, obtaining a Ph.D. in "metabolism and cell metabolism," an MD equivalency and MD specialist degree in internal medicine at the Univ. of Geneva, the article said.

"[Medenica's] U.S. medical training includes post-graduate specialty programs in oncology and hematology at M.D. Anderson Tumor Institute...; specific clinical procedure courses in oncology, hematology and immunology at UCLA, Stanford, Memorial Sloan-Kettering Cancer Center, National Cancer Institute, Mayo Clinic, Roswell Park Memorial Institute, Mercy Catholic Medical Center, Dana-Farber Cancer Institute and Harvard University."

Also included in the article was a comment from Medenica, who pledged that the center he was about to establish would "work closely with National Cancer Institute, the Federal Drug Administration [sic.], Roswell Park Medical Center [sic.], Sloan-Kettering Cancer Institute [sic.], the American Cancer Society, M.D. Anderson Tumor Institute, [Medical Univ. of South Carolina], and other major cancer centers in this country."

Three years later, a brochure published by Medenica's clinic, stated that the physician had "studied" at "Roswell Park Memorial Institute [sic.], National Cancer Institute,

Sloan Kettering Cancer Center [sic.] and M.D. Anderson Hospital and Tumor Institute.

"He also studied diagnostic and therapy procedures while visiting Mayo Clinic, UCLA Dana Farber Cancer Institute [sic.], National Cancer Institute in Japan, Karolinska Institute in Stockholm and Cancer Institute in Paris," the brochure said.

Medenica's 1989 CV states that from January to March 1972 he held a "residency at National Institute [sic.] of Health and National Cancer Institute, Bethesda, Maryland, USA." The same document states that in 1977 Medenica was a "Member of Drug Investigation Cancer Program" at NCI.

"There is no record in active NCI files to show that Rajko Medenica ever served as a consultant to the NCI Drug Development Program," said an NCI spokesman. A review of NCI files was requested by **The Cancer Letter**.

Advisory Board

After Medenica established a practice on Hilton Head, his supporters made an attempt to work within the established framework of cancer research. To that end, West contacted Emil Freireich, chairman of the Dept. of Hematology at M.D. Anderson Cancer Center.

In 1985, Freireich agreed to serve on the scientific advisory board to the South Carolina Oncology Foundation, which sought to develop a comprehensive cancer center on Hilton Head.

"We were recruited by Gov. West to serve as advisors to the South Carolina Oncology Foundation," Freireich said to **The Cancer Letter**. The advisory board met four times. Though it was never dissolved, its final meeting was held Oct. 2, 1986, sources said.

Freireich also wrote a letter to the South Carolina State Board of Medical Examiners, recommending that Medenica be allowed to practice medicine in the state.

In the letter dated March 27, 1985, Freireich wrote that Medenica visited M.D. Anderson at least once a year for at least 10 years, which in the aggregate "constituted at least six to seven months of equivalent time if it were spent in one period." During those visits, Medenica "attended the working and teaching sessions in my department and many departments throughout the institution," Freireich wrote.

"It was an indifferent recommendation based on very limited knowledge," Freireich said to **The Cancer Letter**. "It certainly wasn't positive. It makes it clear that we didn't interact professionally in any way."

The recommendation refers to "professional conversations" held during visits to M.D. Anderson as well as conversations with colleagues in Geneva, Freireich said. Freireich said his professional contacts with Medenica ended seven years ago.

After the state board gave Medenica the license to practice in South Carolina, Hilton Head Hospital's board of directors and medical staff voted to recognize his

Swiss postgraduate training as equivalent to a U.S. board certification, hospital sources said.

While Medenica was treating patients on Hilton Head, authorities in Switzerland and Yugoslavia pressed on with their cases against him. The Yugoslav extradition was fought off after West, along with Sens. Hollings and Strom Thurmond (R-SC) convinced then Secretary of State George Shultz to put a hold on that country's request to extradite the physician. In the meantime, Medenica became a U.S. citizen, which made him free to ignore such petitions.

According to press reports, the doctor said he intended to face his accusers in Geneva. However, in March 1989, Chief Judge Sol Blatt Jr. of the U.S. District Court for the District of South Carolina issued a preliminary injunction against Medenica's foreign travel, ordering the doctor to surrender his U.S. passport to a court clerk.

"Dr. Medenica is ethically and statutorily prohibited from discontinuing the treatment of his patients," Blatt wrote. The ruling was a response to a petition by Charles Stevinson, a Colorado businessman, who argued that no physician would be able to continue Stevinson's treatment if Medenica were jailed ("Legal Times," April 3, 1989).

The Swiss tried Medenica in absentia. At the trial in Geneva, Medenica was represented by F. Lee Bailey, who is also co-counsel in the malpractice suit filed in Beaufort County.

Witnesses at the Geneva trial included Muhammad Ali, who at the time was being treated by Medenica for household pesticide intoxication. (According to press reports, other physicians had diagnosed Parkinson's disease.) Murphy, by then chief medical officer at ACS, also testified.

Murphy said he made no special trip to Geneva. He happened to be there at the time of the trial, and his testimony was limited to Medenica's consulting on interferon at Roswell Park. "I testified on what he did on interferon, that's all," Murphy said to **The Cancer Letter**. Murphy said he has not kept abreast of Medenica's subsequent career.

According to press reports, in May 1989, a Swiss jury found Medenica guilty of defrauding the Yugoslav social security system of \$580,000 and the doctor was sentenced to four years in prison.

Credentials Challenged

Shortly after Medenica established his practice on Hilton Head, another oncologist, Jane Gehlsen, moved to the island.

The way Gehlsen tells it, after practicing at the same hospital with Medenica, she decided to look into his medical credentials.

After reviewing Medenica's CV, she saw that he was claiming to have received training at Memorial Sloan-

Kettering at the time Gehlsen was completing her training there. Gehlsen had not seen Medenica or heard of him until coming to Hilton Head, she said to *The Cancer Letter*.

Medenica's supporters see Gehlsen's motivation differently, portraying her battle with Medenica as a local medical feud, with a less successful physician aiming at the market share of a more successful colleague.

Gehlsen wrote to Memorial as well as to other institutions listed on Medenica's CV and the brochures published by his clinic and the hospital.

"Dr. Medenica is not an alumnus of any training program at MSKCC," Thomas Fahey, deputy physician-in-chief at Memorial Sloan-Kettering, wrote in a June 26, 1989, letter to Gehlsen.

"We have not been able to verify any of his claims to what would even amount to 'observer' status at the hospital. I have invited him to produce documentation of this and it has not been forthcoming.

"Unfortunately, his name appears as an Alumnus of MSKCC in the 1982/83 Alumni Directory. Apparently he submitted an information data request which was unchecked until the 1986 edition. When we were unable to verify his claims to fellowship here in oncology, his name was removed from subsequent editions.

"In March 1986, I wrote Dr. Medenica to inform him of the above and asked him to change his curriculum vitae so that it would not reflect MSKCC training. If he continues to promote himself as an MSKCC trainee, this clearly is a fraudulent credential."

Another letter, from Samuel Hellman, formerly Memorial's physician-in-chief, stated that Medenica had been at Memorial from May 27 through June 1, 1979, visiting Herbert Oetgen. "This was arranged through his mentor in Geneva, a Dr. Pierre Miescher," Hellman wrote. "We have no other record of his being here."

Dana-Farber, too, was unable to find records of Medenica's work on its clinical staff. "I have looked through my records..., and Dr. Medenica was not a member of our clinical staff..., " Marjorie Sholes, medical staff coordinator, wrote in a letter to Gehlsen dated July 7, 1989. "It is possible that he trained in one of our research laboratories," the letter said.

Similarly, M.D. Anderson does not consider Medenica an alumnus. "Our records do not indicate that Dr. Medenica has held an appointment of any type at this institution," James Bowen, vice president for academic affairs, wrote in a letter dated July 7, 1989. "While it is apparent that Dr. Medenica did not participate in one of our structured training programs, it is possible that he attended a conference or course presented by the institution...."

"Studied Protocols"

Medenica's correspondence with Mayo Clinic appears to offer a glimpse of the sort of association the doctor

considers sufficient for inclusion in a CV and citation in promotional materials.

On Nov. 12, 1987, an article in the "Island Packet" listed Mayo Clinic among the institutions with which Medenica had been associated.

On Feb. 2, 1988, Mayo Clinic's Secretary Franklin Iossi wrote to the newspaper that Medenica "has never been a student, resident or a member of the staff or in any way associated with Mayo Clinic or Mayo Foundation."

"We would appreciate your publishing this information to clear up any misconceptions in your readers' minds," Iossi wrote.

On Feb. 19, Medenica responded that he had never claimed to have been trained at Mayo.

"I did, however, most definitely meet and work with several members of the staff at Mayo Clinic on several occasions. I spent several weeks at a time studying many different protocols and procedures. One such visit included reviewing the treatment of gastrointestinal carcinomas, leukemias and lymphomas, blood bank support programs, new methods of bone marrow biopsies, and administrative aspects of hematologic, laboratory and medical oncology research programs.

"I am sure that your experience is sufficient to realize that--in order to not only review protocols but to have access to all the records, which I most certainly had--involves extensive training and learning. I still have all of my original notebooks and correspondence from the people with whom I so closely worked..."

On April 1, 1988, Mayo's Iossi wrote back that "upon further review by the director and members of our comprehensive cancer center and division of hematology, there is no evidence that you have ever been at the clinic to work with 'several members of the staff at Mayo Clinic on several occasions,' or that you 'spent several weeks at a time studying many different protocols and procedures.'" The letter also requested Medenica to provide the dates of his visits at Mayo Clinic and the names of the physicians with whom he had studied.

On April 26, Medenica responded with a list of 26 Mayo Clinic protocols he said he had studied. Also enclosed was a 1979 letter in which John Kovach, who later became director of the Mayo Clinic Comprehensive Cancer Center, wrote that Medenica had reviewed a number of the clinic's programs.

"My time spent at Mayo Clinic was not only beneficial for my colleagues and me, but extremely enjoyable," Medenica wrote.

Mayo Clinic officials appeared unsatisfied by the explanation. "In no way can such contacts be construed as the basis for claiming that one was educated in the usual sense of the word in the management of patients except in the broader context," Iossi wrote on Oct 19,

1989, responding to an inquiry by Gehlsen. "No one at Mayo has had any contact with Dr. Medenica except in the instance when he may have been a casual visitor. Certainly, the fact that he visited Mayo Clinic and discussed cancer therapy should not be a basis for claims of medical education."

The final letter in Gehlsen's Medenica file came from the Charleston, SC, based McNair Law Firm:

"Any further action by you... which in any way reflects upon Dr. Medenica's reputation or professional activities will not be tolerated and will be the subject of legal redress," the letter, dated Feb. 27, 1991, warned her.

Contacted by **The Cancer Letter**, Gehlsen said she is in the process of moving to Birmingham, AL, where she has accepted a job as chief of oncology at the Lloyd Nolan Hospital.

Ozer Review Of Taylor's Treatment

The following is the unedited text of a peer review document on the treatment of Gayle Taylor, plaintiff in a civil suit against Rajko Medenica, the Hilton Head, SC, physician who treated her.

The report was prepared by Howard Ozer, chief of the Div. of Medical Oncology at the Univ. of North Carolina Lineberger Comprehensive Cancer Center, at the request of the Hilton Head Hospital's medical executive committee.

Under South Carolina law, the document was not subject to discovery in civil litigation. However, a copy of the report was mailed anonymously to the plaintiff's attorneys and the text of the review was included in the complaint.

Attorneys for the hospital and Medenica are seeking to strike the report from evidence. A motion filed by the hospital argues that "Dr. Ozer's report is inaccurate and based upon incomplete information."

Plaintiff's attorneys contend the report is not protected by peer review privilege since it was prepared without authorization by the plaintiff and not received through normal discovery.

Text Of Review

As best I can tell from the chart, Dr. Medenica was consulted as the medical oncologist during the recovery period. Dr. Medenica's lab also received a specimen from Ms. Taylor's tumor on which they performed both drug sensitivity testing and DNA analyses. I could find no detailed information regarding the drug sensitivity testing, although a note by Dr. Medenica subsequently states that the tumor was sensitive to CMF (cyclophosphamide, methotrexate and 5 FU) as well as to mitomycin-C. The ploidy analysis performed by flow cytometry was available in the chart and shows a major population of cells in GO/1 and a second population of cells in mitosis (G2/M). Dr. Medenica interprets this pattern as showing "multiple peaks" which it most certainly does not. The pattern does indicate both a resting cell and a dividing cell population.

These data are consistent with a poor prognosis finding of an S-phase fraction of the tumor cell population higher than 10-20%, however, aneuploidy is

not present, suggesting that Dr. Medenica has difficulty interpreting his own laboratory's data.

In summary, then, we have a 34-year-old woman with node negative breast cancer, a tumor measuring 2.5 centimeters, positive lumpectomy margins and definitive therapy with a modified radical mastectomy and several poor prognostic indicators, including family history, negative hormone receptor status, and a high S-fraction of cells. This particular complex of problems is unfortunately all too common in oncology practice, and has been carefully evaluated in multiple clinical trials over the last 15 years by numerous groups, most notably the NSABP.

The evolution of thinking with regard to node negative T-2 lesions such as this one has evolved over this period of time. Originally, it was believed that no therapy following modified radical mastectomy was required. This simple observation of patients with no further therapy results in long-term survival of as much as 65% (see attached table 38-17 from DeVita).

Subsequently, the NSABP performed a trial in which they gave adjuvant chemotherapy in the form of MF to node-negative patients (they believed at the time that the addition of an alkylating agent with the long term risk of acute leukemia represented too great a risk in this group of patients) and determined that the adjuvant therapy provided approximately a 5-10% improvement in the 5-year survival rates. In subsequent studies, they included the alkylator cyclophosphamide in their adjuvant regime, (CMF) and demonstrated that in premenopausal, node-negative, hormone receptor negative patients receiving adjuvant therapy, there was improvement in 10 year survival in as many as 20 or possibly even 30% of these patients.

To translate the meaning of this, as many as 1/5 to 1/3 of the patients receiving adjuvant CMF for high risk resected breast cancer should be expected to benefit with longer survival and probably cure. Thus, through these trials, CMF has become the gold standard utilized by most medical oncologists for adjuvant therapy of high risk node-negative breast cancer. Any other therapy of breast cancer should, at this point, be considered both controversial and investigational, and not all oncologists accept even CMF as appropriate therapy.

Although some physicians might argue that CAF (substituting adriamycin for methotrexate) would be advantageous in high risk patients, this is also under investigation and is certainly not an accepted standard of practice.

The addition of any other agents to CMF is well beyond the envelope of standard practice and should be undertaken in the research setting only with great care, careful explanation of risks and benefits and virtual certainty that the risks in individual patients of relapse from breast cancer (involvement of 6 or more positive

nodes, for example) is sufficiently great.

This patient was also on Tamoxifen at some point; this is obviously done despite the negative hormone receptors and would be a reasonable alternative to chemotherapy, if the patient had requested no chemotherapy. It should not be done in conjunction with chemotherapy, however, because it probably has no effect and should be reserved for a subsequent recurrence.

Dr. Medenica also pursued what I find to be an incredible number of ancillary tests of literally no value. Probably 90+% of the lab test chart for this patient are worthless and represent hundreds of thousands of dollars of unnecessary testing. All of the immune tests, as well as assays for interferon inhibitor and lymphokine inhibitor (assays unique to Dr. Medenica that are of no demonstrated value in the literature or in any other laboratory) were performed and evidently repeated with each patient visit. Flow cytometry of peripheral lymphocyte marker testing is also useless in this setting. A brain MRI is no better as a screen than a CAT scan of less expense which would have done perfectly well. The laboratory testing was repeated every few weeks. I mentioned the excessive testing in great detail in my last letter. It is evident that Dr. Medenica continues to do this. In a patient with node-negative breast cancer on adjuvant therapy, it is my personal opinion that this type of testing is not simply excessive but actually borders on the bizarre.

In early September (9-1-91), Dr. Medenica describes a positive interferon inhibitor and lymphokine inhibitor and says that he and the patient "need to talk about it." At no point does he display evidence of informed consent for his use of mitomycin-C in addition to CMF, nor does he describe permission or understanding by the patient of the additional testing that he is performing. The adjuvant chemotherapy and all of the unnecessary lab testing is performed every 2 weeks between September 1 and January 17.

The patient first becomes anemic on 10-29, not surprising in light of chemotherapy although the cyclophosphamide was increased to 600 mgs. without explanation on 10-1. Several unusual vitamins are begun in early January, apparently as a result of progressive anemia. On February 7, the patient requires a 2 unit cell transfusion and immodium therapy for diarrhea. She is treated on February 10 for what Dr. Frank Hart believes is an anxiety reaction with migraine and a sensory radiculopathy. On February 20, she presents with pancytopenia, an elevated BUN and a mildly elevated creatinine. It is apparent from the chart that both Dr. Hart and Dr. Medenica realize that Ms. Taylor has a serious complication and they pursue a very intensive work up for autoimmune diseases as well as abnormalities of bone marrow function. Dr. Medenica performs a bone marrow aspirate at this point and to my

great bewilderment, actually does flow cytometry, immune panel assays, colony forming units, immunomodulation and pharmacosensitivity assays and even a karyotype on this sample. I find this level of testing on Ms. Taylor's bone marrow at this point in her history to be beyond bizarre.

It is clear at this point that Dr. Medenica does not realize what he's dealing with. Her white count is 18,600, hemoglobin 7.9 and platelets 44,000 with an LDH of 566, a creatinine that begins at 2.3 and escalates to 2.8, a BUN that goes from 39 to 89 on discharge and a urinalysis showing 300 mgs percent protein. She is Coombs negative and received packed red cells, erythropoietin, GCSF (actually contraindicated with an elevated white count of 18,600) and is treated with steroids and intravenous immunoglobulin despite the absence of evidence for autoimmune hemolytic anemia.

Dr. Medenica's discharge summary appears to be attempting to defend the diagnosis of autoimmune hemolytic anemia, despite the fact that the clinical data clearly make the diagnosis of hemolytic uremic syndrome. There is some discussion of whether this is a Keflex-induced hemolytic anemia that needs to be treated with steroids and intravenous immunoglobulin. Dr. Hart eventually makes the diagnosis of HUS secondary to mitomycin-C and Dr. Medenica claims in the summary that this is prevented with vitamin B-6 (not true) with which he has already been treating the patient. The patient is then transferred to Duke University for definitive therapy, presumably with SPA immunopheresis.

My interpretation of this course of events is that Ms. Taylor clearly received excessive and useless laboratory testing costing hundreds of thousands of dollars. Secondly, for a woman with a T-2 lesion and node-negative breast cancer treated with modified radical mastectomy, the appropriate adjuvant therapy would have been CMF with a relatively modest risk of complication. The addition of mitomycin-C, although the agent can work in refractory breast cancer, in the adjuvant setting is totally inappropriate and carries between a 5-15% risk of causing HUS. This risk is based on cumulative dose and it is quite evident that was the case with Ms. Taylor. The long term effects of HUS include severe renal dysfunction and even chronic renal failure requiring dialysis and potentially renal transplant.

Thus, Dr. Medenica has taken an individual with a potential of at least 50% of being cured of her breast cancer with no adjuvant therapy, an improvement to perhaps 70% of being cured of her breast cancer with CMF and added a chemotherapy drug of no proven additional benefit which would provide her with as much as 15% risk of development of a severe complication which did occur in this case. I find this particular therapeutic decision to be virtually incredible.