

TERCICA INC
Form PRE 14A
August 22, 2006
Table of Contents

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934

Filed by the Registrant x
Filed by a Party other than the Registrant ..
Check the appropriate box:

- x Preliminary Proxy Statement
- .. Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- .. Definitive Proxy Statement
- .. Definitive Additional Materials
- .. Soliciting Material Pursuant to § 240.14a-12

Tercica, Inc.

(Name of Registrant as Specified In Its Charter)

N/A

(Name of Person(s) Filing Proxy Statement if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box)

- x No fee required.
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1. Title of each class of securities to which transaction applies:

2. Aggregate number of securities to which transaction applies:

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3. Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (Set forth the amount on which the filing fee is calculated and state how it was determined):

4. Proposed maximum aggregate value of transaction:

5. Total fee paid:

.. Fee paid previously with preliminary materials.

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6. Amount Previously Paid:

7. Form, Schedule or Registration Statement No.:

8. Filing Party:

9. Date Filed:

Table of Contents

TERCICA, INC.

2000 Sierra Point Parkway

Suite 400

Brisbane, California 94005

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS

TO BE HELD ON _____, 2006

Dear Stockholder:

You are cordially invited to attend a Special Meeting of Stockholders of **TERCICA, INC.**, a Delaware corporation (**Tercica**). The meeting will be held on _____, 2006 at _____ local time at 2000 Sierra Point Parkway, Brisbane, California for the following purposes:

1. To approve the issuance of the following securities to Ipsen, S.A. or its designated affiliate (**Ipsen**) in connection with the transactions contemplated by the Stock Purchase and Master Transaction Agreement, dated July 18, 2006, between Tercica and Ipsen (the **Purchase Agreement**), as described in Proposal 1 in the accompanying proxy statement:

12,527,245 shares of Tercica common stock for an aggregate purchase price of \$77,318,944;

a warrant to purchase a minimum of 4,948,795 shares of Tercica common stock at an initial exercise price of \$7.41 per share, as more fully described in Proposal 1 in the accompanying proxy statement, and the shares of Tercica common stock issuable upon exercise of the warrant;

a convertible promissory note in the principal amount of \$25,037,000, which would be convertible into shares of Tercica common stock at an initial conversion price of \$7.41 per share, and the shares of Tercica common stock issuable upon conversion of the note;

a convertible promissory note in the principal amount of 30,000,000, which would be convertible into shares of Tercica common stock at an initial conversion price of 5.92 per share, and the shares of Tercica common stock issuable upon conversion of the note; and

a convertible promissory note in the principal amount of \$15,000,000, which would be convertible into shares of Tercica common stock at an initial conversion price of \$7.41 per share, and the shares of Tercica common stock issuable upon conversion of the note.

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2. To approve amendments to Tercica's amended and restated certificate of incorporation and amended and restated bylaws, as described in Proposal 2 in the accompanying proxy statement.
3. To approve additional amendments to Tercica's amended and restated certificate of incorporation, as described in Proposal 3 in the accompanying proxy statement.
4. To approve the adoption of a Rights Agreement implementing a stockholder rights plan, as described in Proposal 4 in the accompanying proxy statement.
5. To conduct any other business properly brought before the meeting.

These foregoing items of business are more fully described in the proxy statement accompanying this notice. All of the proposals relate to the transactions contemplated by the Purchase Agreement, and none would be implemented if such transactions are not consummated.

Table of Contents

The record date for the special meeting is August 28, 2006. Only stockholders of record at the close of business on that date may vote at the meeting or any adjournment thereof.

By Order of the Board of Directors

Stephen N. Rosenfield

Secretary

Brisbane, California

, 2006

You are cordially invited to attend the special meeting in person. Whether or not you expect to attend the special meeting, please complete, date, sign and return the enclosed proxy card, or vote over the telephone or on the Internet as instructed in these materials, as promptly as possible in order to ensure your representation at the special meeting. A return envelope (which is postage prepaid if mailed in the United States) is enclosed for your convenience. Even if you have voted by proxy, you may still vote in person if you attend the special meeting. Please note, however, that if your shares are held of record by a broker, bank or other nominee and you wish to vote at the special meeting, you must obtain a proxy card issued in your name from that record holder.

Table of Contents

TERCICA, INC.

2000 Sierra Point Parkway

Suite 400

Brisbane, California 94005

PROXY STATEMENT

FOR THE SPECIAL MEETING OF STOCKHOLDERS

, 2006

QUESTIONS AND ANSWERS ABOUT THESE PROXY SOLICITATION MATERIALS AND VOTING

Why am I receiving these materials?

Tercica, Inc. (Tercica) sent you this proxy statement and the enclosed proxy card because the Board of Directors (the Board) of Tercica is soliciting your proxy to vote at the special meeting of stockholders to be held on , 2006 at local time at 2000 Sierra Point Parkway, Brisbane, California (the Special Meeting). You are invited to attend the Special Meeting to vote on the proposals described in this proxy statement. However, you do not need to attend the meeting to vote your shares. Instead, you may simply complete, sign and return the enclosed proxy card, or follow the instructions below to submit your proxy over the telephone or on the Internet.

Tercica intends to mail this proxy statement and accompanying proxy card on or about , 2006 to all stockholders of record entitled to vote at the Special Meeting.

Who can vote at the Special Meeting?

Only stockholders of record at the close of business on August 28, 2006 will be entitled to vote at the Special Meeting. On this record date, there were shares of common stock outstanding and entitled to vote.

Stockholder of Record: Shares Registered in Your Name

If on August 28, 2006 your shares were registered directly in your name with Tercica's transfer agent, Computershare Limited, then you are a stockholder of record. As a stockholder of record, you may vote in person at the Special Meeting or vote by proxy. Whether or not you plan to attend the Special Meeting, Tercica urges you to fill out and return the enclosed proxy card, or vote by proxy over the telephone or on the Internet as instructed below, to ensure that your vote is counted.

Beneficial Owner: Shares Registered in the Name of a Broker or Bank

If on August 28, 2006 your shares were held, not in your name, but rather in an account at a brokerage firm, bank, dealer or other similar organization, then you are the beneficial owner of shares held in street name and these proxy materials are being forwarded to you by that organization. The organization holding your account is considered to be the stockholder of record for purposes of voting at the Special Meeting. As a beneficial owner, you have the right to direct your broker or other agent on how to vote the shares in your account. You are also invited to attend the Special Meeting. However, since you are not the stockholder of record, you may not vote your shares in person at the Special Meeting unless you request and obtain a valid proxy card from your broker or other agent.

Table of Contents

What am I voting on?

There are four matters scheduled for a vote:

- Ø To approve the issuance of the following securities to Ipsen, S.A. or its designated affiliate (Ipsen) in connection with the transactions contemplated by the Stock Purchase and Master Transaction Agreement, dated July 18, 2006, between Tercica and Ipsen, as described in Proposal 1 in this proxy statement:

12,527,245 shares of Tercica common stock for an aggregate purchase price of \$77,318,944;

a warrant to purchase a minimum of 4,948,795 shares of Tercica common stock at an initial exercise price of \$7.41 per share, as more fully described in Proposal 1 in this proxy statement, and the shares of Tercica common stock issuable upon exercise of the warrant;

a convertible promissory note in the principal amount of \$25,037,000, which would be convertible into shares of Tercica common stock at an initial conversion price of \$7.41 per share, and the shares of Tercica common stock issuable upon conversion of the note;

a convertible promissory note in the principal amount of 30,000,000, which would be convertible into shares of Tercica common stock at an initial conversion price of 5.92 per share, and the shares of Tercica common stock issuable upon conversion of the note; and

a convertible promissory note in the principal amount of \$15,000,000, which would be convertible into shares of Tercica common stock at an initial conversion price of \$7.41 per share, and the shares of Tercica common stock issuable upon conversion of the note.

- Ø To approve amendments to Tercica's amended and restated certificate of incorporation and Tercica's amended and restated bylaws, as described in Proposal 2 in this proxy statement.

- Ø To approve additional amendments to Tercica's amended and restated certificate of incorporation, as described in Proposal 3 in this proxy statement.

- Ø To approve the adoption of a Rights Agreement implementing a stockholder rights plan, as described in Proposal 4 in this proxy statement.

All of the proposals relate to the transactions contemplated by the Stock Purchase and Master Transaction Agreement, and none would be implemented if such transactions are not consummated.

Why is Tercica seeking stockholder approval of the issuance of securities to Ipsen as set forth in Proposal 1?

Tercica is subject to the rules of The NASDAQ Stock Market LLC because Tercica common stock is listed on the NASDAQ Global Market. These rules require stockholder approval prior to the issuance of securities when the issuance or potential issuance will result in a change of control of the issuer. In addition, the rules require stockholder approval prior to the issuance of securities in connection with a transaction other than a public offering, involving the sale, issuance or potential issuance of common stock (or securities convertible into or exercisable for common stock) equal to 20% or more of the common stock or 20% or more of the voting power outstanding prior to the issuance for less than

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the greater of book or market value. The issuances of securities to Ipsen pursuant to the Stock Purchase and Master Transaction Agreement may be deemed to result in a change of control under these rules. In addition, because of the potential for adjustments to the conversion prices and the exercise price of the convertible notes and warrant that would be issued to Ipsen, the issuance of these securities may be deemed an issuance at less than the greater of book or market value. Accordingly, Tercica is seeking stockholder approval to ensure compliance with these rules. To be approved by the stockholders, Proposal 1 must receive an affirmative vote from at least a majority of the shares represented and voting either in person or by proxy at the Special Meeting on Proposal 1 (which shares voting affirmatively also constitute at least a majority of the required quorum).

Table of Contents

Why is Tercica entering into this transaction with Ipsen?

Beginning in 2005, Tercica began to consider licensing the commercial rights to its Increlex[®] product outside of the United States. In the fall of 2005, Tercica's management and the Board undertook a comprehensive strategic review of Tercica's operations and business prospects on a going-forward basis. In order to meet the short-term and long-term goals of Tercica, Tercica's management and the Board recognized the need to raise significant additional capital and agreed to evaluate three strategic scenarios:

remain an independent public company and finance Tercica through the sale of additional equity in the capital markets;

sell a portion of Tercica's equity to a strategic partner while maintaining significant operational independence; and

sell all, or substantially all, of Tercica's equity and assets in an acquisition or merger to a company with greater financial resources. Tercica evaluated the likelihood of the sale of Tercica, and, in light of public market conditions, Tercica's ability to raise additional capital through the public markets. Further, Tercica met with several companies that operate in the endocrinology and/or pediatric markets, and such meetings did not result in concrete discussions regarding a possible transaction. After several meetings with Ipsen starting at the end of 2005, it became clear that there was a strong rationale for a broad commercial and strategic partnership through which Tercica and Ipsen would cross-license their respective Increlex[®] and Somatuline[®] Autogel[®] products, and Ipsen would make an equity investment in Tercica. The Board ultimately determined that the transactions with Ipsen are in the best interests of Tercica and its stockholders in light of:

Tercica's business prospects as a stand-alone business entity going forward;

the terms and conditions that Tercica would receive under the agreement providing for the license of Increlex[®] to Ipsen and the attractiveness of Ipsen as Tercica's commercial partner for the Increlex[®] product outside of the United States;

the terms and conditions that Tercica would receive under the agreement providing for the license of Somatuline[®] Autogel[®] to Tercica, and the expected impact of the projected cash flows from the sale of Somatuline[®] Autogel[®] on Tercica's long-term financial forecasts;

Tercica's need for immediate financing, and the fact that the licensing agreements and the equity investment by Ipsen would offer a comprehensive financing solution for Tercica's short-term and long-term operating goals;

the premium price to be paid for the securities to be purchased by Ipsen compared to the then-current and approximately 20-day historical volume-weighted average price of Tercica common stock;

the impact of the proposed transactions on Tercica's balance sheet and capital structure; and

the enhanced potential for strategic opportunities and alternatives that the proposed transactions would provide to Tercica for building upon the Ipsen relationship on a going-forward basis, such as expanding Tercica's commercial focus into the adult endocrinology market, accessing Ipsen's global commercial infrastructure for Tercica's future products in development, and gaining access to Ipsen's rich endocrine pipeline.

Why is Tercica seeking stockholder approval of the amendments to Tercica's amended and restated certificate of incorporation and amended and restated bylaws as set forth in Proposal 2?

The amendments described in Proposal 2 of this proxy statement are being proposed to eliminate Tercica's classified board of directors and certain other anti-takeover protections in Tercica's amended and restated certificate of incorporation and amended and restated bylaws and to facilitate the proposed transactions with Ipsen. Tercica is seeking stockholder approval of Proposal 2 to amend certain provisions of Tercica's amended

Table of Contents

and restated certificate of incorporation and amended and restated bylaws pursuant to the requirements of the Delaware General Corporation Law and the supermajority voting requirements of Tercica's amended and restated certificate of incorporation and amended and restated bylaws. Under Tercica's amended and restated certificate of incorporation and amended and restated bylaws, Tercica may amend, alter, change or repeal these provisions only upon the affirmative vote of the holders of at least 80% of Tercica's issued and outstanding common stock on the record date.

Why is Tercica seeking stockholder approval of the amendment to Tercica's amended and restated certificate of incorporation as set forth in Proposal 3?

Stockholder approval of the amendment described in Proposal 3 of this proxy statement is a condition to the closing of the proposed transactions with Ipsen. Tercica is seeking stockholder approval of Proposal 3 to amend certain provisions of Tercica's amended and restated certificate of incorporation pursuant to the requirements of the Delaware General Corporation Law. Under the Delaware General Corporation Law, any amendment of Tercica's amended and restated certificate of incorporation must be approved by the holders of at least a majority of Tercica's issued and outstanding common stock on the record date.

Why is Tercica seeking stockholder approval of the adoption of the Rights Agreement as set forth in Proposal 4?

The Rights Agreement described in Proposal 4 is being proposed to facilitate the proposed transactions with Ipsen. None of Tercica's amended and restated certificate of incorporation, amended and restated bylaws or applicable law require stockholder approval of the Rights Agreement as described in Proposal 4 of this proxy statement or any similar arrangement. However, the Board has elected to submit the Rights Agreement to the stockholders for approval as a matter of good corporate practice, consistent with the 2006 Corporate Governance Policy issued by Institutional Shareholder Services. To be approved by the stockholders, Proposal 4 must receive an affirmative vote from at least a majority of the shares represented and voting either in person or by proxy at the Special Meeting on Proposal 4 (which shares voting affirmatively also constitute at least a majority of the required quorum).

What if one or more of the proposals are not approved?

The approval of Proposal 1 by the stockholders is a condition to the closing of the proposed transactions with Ipsen as described in Proposal 1. If Proposal 1 is not approved by the stockholders, Tercica would not implement any of the other proposals set forth in this proxy statement and Tercica would be required to pay a termination fee to Ipsen. See *Proposal 1 Approval of the Securities Issuance Summary of the Purchase Agreement and Other Transaction Documents Stock Purchase and Master Transaction Agreement Effect of Termination*. If Proposal 2 is not approved by the stockholders, Tercica would not amend the provisions of Tercica's amended and restated certificate of incorporation and amended and restated bylaws as set forth under Proposal 2. Instead, Tercica has agreed to submit the amendments to Tercica's amended and restated certificate of incorporation and amended and restated bylaws as described in Proposal 2 to the stockholders for approval at the next annual meeting of Tercica's stockholders. The approval of Proposal 2 is not a condition to the closing of the proposed transactions with Ipsen. If Proposal 3 is not approved by the stockholders, Tercica would not amend the provisions of Tercica's amended and restated certificate of incorporation as set forth in Proposal 3. The approval of Proposal 3 by the stockholders is a condition to the closing of the proposed transactions with Ipsen. Accordingly, Tercica would be required to pay a termination fee to Ipsen if Proposal 3 is not approved by the stockholders and, as a result, Ipsen exercises its right to terminate the proposed transactions. See *Proposal 1 Approval of the Securities Issuance Summary of the Purchase Agreement and Other Transaction Documents Stock Purchase and Master Transaction Agreement Effect of Termination*. The implementation of, but not stockholder approval of, the Rights Agreement is a condition to Ipsen's obligation to close the proposed transactions, as described in Proposal 1. Accordingly, Tercica has, and notwithstanding the solicitation of stockholder approval of the Rights Agreement in this proxy statement preserves, the ability to implement the Rights Agreement even if Proposal 4 is not approved by the stockholders.

Table of Contents

How do I vote?

You may vote either For or Against or abstain from voting with respect to each of the proposals. The procedures for voting are fairly simple:

Stockholder of Record: Shares Registered in Your Name

If you are a stockholder of record, you may vote in person at the Special Meeting or vote by proxy using the enclosed proxy card, vote by proxy over the telephone, or vote by proxy on the Internet. Whether or not you plan to attend the Special Meeting, Tercica urges you to vote by proxy to ensure that your vote is counted. You may still attend the Special Meeting and vote in person if you have already voted by proxy.

- Ø To vote in person, come to the Special Meeting and Tercica will give you a ballot when you arrive.
- Ø To vote using the proxy card, simply complete, sign and date the enclosed proxy card and return it promptly in the envelope provided. If you return your signed proxy card to Tercica before the Special Meeting, Tercica will vote your shares as you direct.
- Ø To vote over the telephone, dial toll-free 1-800-652-VOTE (8683) in the United States or Canada using a touch-tone phone and follow the recorded instructions. Your vote must be received by _____, Central Time, on _____, 2006 to be counted.
- Ø To vote on the Internet, go to <http://www.computershare.com/expressvote> and enter the information requested on your computer screen and follow the simple instructions. Your vote must be received by _____, Central Time, on _____, 2006 to be counted.

Beneficial Owner: Shares Registered in the Name of Broker or Bank

If you are a beneficial owner of shares registered in the name of your broker, bank or other agent, you should have received a proxy card and voting instructions with these proxy materials from that organization rather than from Tercica. Simply complete and mail the proxy card to ensure that your vote is counted. Alternatively, you may vote over the telephone or on the Internet as instructed by your broker or bank. To vote in person at the Special Meeting, you must obtain a valid proxy from your broker, bank or other agent. Follow the instructions from your broker or bank included with these proxy materials, or contact your broker or bank to request a proxy form.

Tercica provides Internet proxy voting to allow you to vote your shares on-line, with procedures

designed to ensure the authenticity and correctness of your proxy vote instructions. However, please be aware that you must bear any costs associated with your Internet access, such as usage charges from Internet access providers and telephone companies.

How many votes do I have?

On each matter to be voted upon, you have one vote for each share of common stock you owned as of August 28, 2006.

What if I return a proxy card but do not make specific choices?

If you return a signed and dated proxy card without marking any voting selections, your shares will be voted For each of the proposals. If any other matter is properly presented at the meeting, your proxy (i.e., one of the individuals named on your proxy card) will vote your shares using his or her best judgment.

Who is paying for this proxy solicitation?

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Tercica will pay for the entire cost of soliciting proxies. In addition to these mailed proxy materials, Tercica's directors and employees may solicit proxies in person, by telephone or by other means of

Table of Contents

communication. Directors and employees will not be paid any additional compensation for soliciting proxies. Tercica has engaged Innisfree M&A Incorporated, a professional proxy solicitation firm, to assist in soliciting proxies and has agreed to pay Innisfree M&A Incorporated fees not expected to exceed \$7,000, plus out-of-pocket expenses. Tercica may also reimburse brokerage firms, banks and other agents for the cost of forwarding proxy materials to beneficial owners.

What does it mean if I receive more than one proxy card?

If you receive more than one proxy card, your shares are registered in more than one name or are registered in different accounts. Please complete, sign and return **each** proxy card to ensure that all of your shares are voted.

Can I change my vote after submitting my proxy?

Yes. You can revoke your proxy at any time before the final vote at the Special Meeting. If you are the record holder of your shares, you may revoke your proxy in any one of three ways:

- Ø You may submit another properly completed proxy card with a later date.

- Ø You may send a written notice that you are revoking your proxy to Tercica's Corporate Secretary at 2000 Sierra Point Parkway, Suite 400, Brisbane, California 94005.

- Ø You may attend the Special Meeting and vote in person. Simply attending the Special Meeting will not, by itself, revoke your proxy. If your shares are held by your broker or bank as a nominee or agent, you should follow the instructions provided by your broker or bank.

When are stockholder proposals due for Tercica's 2007 Annual Meeting of Stockholders?

To be considered for inclusion in the proxy materials for Tercica's 2007 Annual Meeting of Stockholders, your proposal must be submitted in writing by December 25, 2006 to Tercica's Corporate Secretary at 2000 Sierra Point Parkway, Suite 400, Brisbane, California 94005. However, if Tercica's 2007 Annual Meeting of Stockholders is not held between May 7, 2007 and July 6, 2007, then the deadline will be a reasonable time prior to the time that Tercica begins to print and mail its proxy materials.

If you wish to bring a proposal before the stockholders or nominate a director at Tercica's 2007 Annual Meeting of Stockholders, but you are not requesting that your proposal or nomination be included in Tercica's proxy materials for the 2007 Annual Meeting of Stockholders, you must notify Tercica's Corporate Secretary, in writing, not later than the close of business on March 8, 2007. However, if Tercica's 2007 Annual Meeting of Stockholders is not held between May 7, 2007 and July 6, 2007, then the deadline will be not later than the close of business on the tenth day following the date on which the notice of the date of the 2007 Annual Meeting of Stockholders is mailed, or the tenth day following the date on which public disclosure of the date of the 2007 Annual Meeting of Stockholders is made, whichever occurs first. Tercica also advises you to review its amended and restated bylaws, which contain additional requirements about advance notice of stockholder proposals and director nominations. The chairperson of the 2007 Annual Meeting of Stockholders may determine, if the facts warrant, that a matter has not been properly brought before the meeting and, therefore, may not be considered at the meeting. In addition, if you do not also comply with the requirements of Rule 14a-4(c)(2) under the Securities Exchange Act of 1934, as amended, Tercica's management will have discretionary authority to vote all shares for which it has proxies in opposition to any such stockholder proposal or director nomination.

How are votes counted?

Votes will be counted by the inspector of election appointed for the Special Meeting, who will separately count For and Against votes, abstentions and broker non-votes. A broker non-vote occurs when a nominee, such as a broker or bank, holding shares for a beneficial owner does not vote on a particular proposal because the nominee does not have discretionary voting power with respect to that proposal and has not received instructions

Table of Contents

with respect to that proposal from the beneficial owner. In the event that a broker, bank, custodian, nominee or other record holder of Tercica common stock indicates on a proxy that it does not have discretionary authority to vote certain shares on a particular proposal, then those shares will be treated as broker non-votes with respect to that proposal. Accordingly, if you own shares through a nominee, such as a broker or bank, please be sure to instruct your nominee how to vote to ensure that your vote is counted on each of the proposals.

Abstentions and broker non-votes will be treated as shares present for the purpose of determining the presence of a quorum for the transaction of business at the Special Meeting. Abstentions will have the same effect as **Against** votes on each of the proposals. Broker non-votes will generally have no effect on each of Proposals 1 and 4, but will have the same effect as **Against** votes on each of Proposals 2 and 3. However, broker non-votes, together with abstentions, can have the effect of preventing the approval of either Proposals 1 or 4 where the number of **For** votes, though a majority of the votes cast on such Proposal, does not constitute a majority of the required quorum.

How many votes are needed to approve each proposal?

To be approved, **Proposal 1 Approval of the Securities Issuance** must receive a **For** vote from at least a majority of the shares represented and voting either in person or by proxy at the Special Meeting on Proposal 1 (which shares voting **For** also constitute at least a majority of the required quorum).

To be approved, **Proposal 2 Approval of the Supermajority Charter Amendments** must receive a **For** vote at the Special Meeting from at least 80% of the issued and outstanding shares of Tercica common stock.

To be approved, **Proposal 3 Approval of the Majority Charter Amendment** must receive a **For** vote at the Special Meeting from at least a majority of the issued and outstanding shares of Tercica common stock.

To be approved, **Proposal 4 Approval of the Adoption of the Rights Agreement** must receive a **For** vote from at least a majority of the shares represented and voting either in person or by proxy at the Special Meeting on Proposal 4 (which shares voting **For** also constitute at least a majority of the required quorum).

What is the quorum requirement?

A quorum of stockholders is necessary to hold a valid meeting. A quorum will be present if at least a majority of the shares entitled to vote at the Special Meeting are represented by stockholders present at the meeting or by proxy. On the record date, there were _____ shares outstanding and entitled to vote.

Your shares will be counted towards the quorum only if you submit a valid proxy (or one is submitted on your behalf by your broker, bank or other nominee) or if you vote in person at the Special Meeting. Abstentions and broker non-votes will be counted towards the quorum requirement. If there is no quorum, the chairman of the meeting or a majority of the votes represented at the meeting, either in person or by proxy, may adjourn the meeting to another date.

Will representatives of Ernst & Young LLP be present at the Special Meeting?

Representatives of Ernst & Young LLP, Tercica's independent registered public accounting firm, are expected to be present at the Special Meeting. They will have an opportunity to make a statement if they so desire and will be available to respond to appropriate questions. Ernst & Young LLP has audited Tercica's financial statements since its inception in 2000.

How can I find out the results of the voting at the Special Meeting?

Preliminary voting results will be announced at the Special Meeting. Final voting results will be published in Tercica's annual report on Form 10-K for the fiscal year ending December 31, 2006.

Table of Contents

PROPOSAL 1

APPROVAL OF THE SECURITIES ISSUANCE

INTRODUCTION

On July 18, 2006, Tercica entered into the Stock Purchase and Master Transaction Agreement (the **Purchase Agreement**) with Ipsen. Under the terms of the Purchase Agreement, and subject to the conditions to closing provided by the Purchase Agreement, Tercica has agreed to issue to Ipsen: (i) 12,527,245 shares of Tercica common stock (the **Shares**) for an aggregate purchase price of \$77,318,944; (ii) a convertible note in the principal amount of \$25,037,000 (the **First Convertible Note**), which would be convertible into shares of Tercica common stock at an initial conversion price per share of \$7.41; (iii) a second convertible note in the principal amount of 30,000,000, which would be convertible into shares of Tercica common stock at an initial conversion price per share of 5.92 (the **Second Convertible Note**); (iv) a third convertible note in the principal amount of \$15,000,000, which would be convertible into shares of Tercica common stock at an initial conversion price per share of \$7.41 (the **Third Convertible Note**; the First, Second and Third Convertible Notes, collectively, the **Convertible Notes**, and the shares of Tercica common stock issuable upon conversion of the Convertible Notes, collectively, the **Note Shares**); and (v) a warrant to purchase a minimum of 4,948,795 shares of Tercica common stock at an initial exercise price of \$7.41 per share, as described below (the **Warrant**, and the shares of Tercica common stock issuable upon exercise of the Warrant, the **Warrant Shares**).

At the first closing under the Purchase Agreement (the **First Closing**), subject to the satisfaction or waiver of the conditions thereto, Tercica would issue the Shares, the First Convertible Note and the Warrant, and Ipsen would deliver to Tercica \$77,318,944 for the Shares (the **Purchase Price**) and \$25,037,000 for the First Convertible Note. The Purchase Agreement provides that, simultaneously with the First Closing, Tercica and Ipsen (and/or affiliates thereof) would also enter into a Somatuline License and Collaboration Agreement, Increlex License and Collaboration Agreement (collectively, the **License Agreements**), Affiliation Agreement and Registration Rights Agreement, and Tercica would effect amendments to Tercica's amended and restated certificate of incorporation and amended and restated bylaws and adopt a Rights Agreement, each as described in this proxy statement. The amount to be delivered to Tercica for the First Convertible Note would be offset by approximately the same amount that Tercica would owe to Ipsen as an upfront payment under the Somatuline License and Collaboration Agreement. At the second closing (the **Second Closing**), subject to the satisfaction or waiver of the conditions thereto, Tercica would issue the Second Convertible Note and the Third Convertible Note, and Ipsen would deliver to Tercica 30,000,000 and \$15,000,000. The amount to be delivered to Tercica for the Second Convertible Note would be offset by approximately the same amount that Tercica would owe to Ipsen as a milestone payment under the Somatuline License and Collaboration Agreement.

The holders of Tercica common stock are being asked to approve the issuance of the Shares, Convertible Notes, Note Shares, Warrant and Warrant Shares. To be approved, this Proposal 1 must receive a **For** vote from at least a majority of the shares represented and voting either in person or by proxy at the Special Meeting on this Proposal 1 (which shares voting **For** also constitute at least a majority of the required quorum).

BACKGROUND

Beginning in 2005, Tercica began to consider licensing the commercial rights to Tercica's Increlex product outside of the United States. In June 2005, Tercica's management had an initial meeting with Ipsen to discuss such a potential license arrangement. After additional meetings with Ipsen's senior management in August and September of 2005, it became clear that the two companies wanted to explore a broader commercial collaboration, through which, in addition to Ipsen licensing Increlex for markets outside of the United States, Ipsen would also license to Tercica the U.S. and Canadian rights to Ipsen's Somatulin® Autogel® product. In addition to the discussions with Ipsen, Tercica met with other companies to explore a possible transaction. This prompted Tercica's management and the Board to undertake a comprehensive strategic review of Tercica's operations and business prospects on a going-forward basis.

Table of Contents

In order to meet the short-term and long-term goals of Tercica, Tercica's management and the Board recognized the need to raise significant additional capital and agreed to evaluate three strategic scenarios:

remain an independent public company and finance Tercica through the sale of additional equity in the capital markets;

sell a portion of Tercica's equity to a strategic partner while maintaining significant operational independence; and

sell all, or substantially all, of Tercica's equity and assets in an acquisition or merger to a company with greater financial resources. Tercica engaged the services of Lehman Brothers, JSB Partners and Keelin Reeds Partners to advise Tercica on the strategic alternatives. Together with these advisors, Tercica evaluated the likelihood of a sale of Tercica, and in light of public market conditions, Tercica's ability to raise additional capital through the public markets. Tercica's management and the Board acknowledged that, over the coming years, Tercica would likely need to access the capital markets on several occasions prior to it becoming cash flow positive. Lehman Brothers also explored whether certain companies interested in endocrinology or pediatrics would have a possible interest in a transaction with Tercica and arranged meetings between Tercica's management and those companies. These meetings did not, however, result in any concrete discussions regarding a possible transaction.

Tercica's management met again with representatives of Ipsen in late 2005 to discuss potential product licensing arrangements. Together with Tercica's advisors, Tercica also explored potential structures and terms that would make a broader commercial and strategic partnership, including an equity investment in Tercica by Ipsen, attractive to existing Tercica stockholders. On December 12, 2005, Tercica's management updated the Board on: (i) the commercial rights to Increlex outside of the United States potentially to be granted to Ipsen; (ii) the potential license of commercial rights to Somatuline® Autogel® in North America by Tercica; and (iii) the possibility of an equity investment in Tercica by Ipsen. Together, these three transactions would form the basis of a strategic endocrinology collaboration between Tercica and Ipsen. On December 19, 2005, representatives from both Ipsen and Tercica met again and decided to jointly develop business models for the potential commercialization of Somatuline® Autogel® in North America and Increlex in Europe and to more fully explore the potential alternatives for their strategic partnership. In that respect, Ipsen engaged the services of Goldman Sachs International to advise Ipsen on the alternatives for the strategic partnership.

In February 2006, representatives from Ipsen and Tercica agreed in concept on the business models for the potential commercialization of Somatuline® Autogel® in North America and Increlex in Europe and decided to commence negotiations with respect to the potential strategic partnership. Representatives from Ipsen and Tercica then met several times in the first half of 2006, conducting due diligence on the other's product, with Ipsen also conducting due diligence on Tercica's business prospects and personnel. In parallel, additional meetings between the management of the two companies were held for the purpose of reaching agreement on the specific terms for product cross-licensing as well as the purchase of equity and debt securities. During this time, Tercica's management regularly provided informal updates to members of the Board on the progress of the ongoing discussions with Ipsen. Tercica's management also provided formal updates to the full Board on March 15 and May 1, 2006.

As discussions reached an advanced stage, the Board met on June 7, 2006. At this meeting, the general terms of the strategic collaboration were reviewed and found to be in the best interests of Tercica and its stockholders. Tercica's officers were authorized to complete the negotiation of the transaction and to prepare the definitive agreements.

On July 11 and 13, 2006, the Board met again to review the progress of the negotiations and documentation and again reviewed the terms of the transaction. On July 13, 2006, Lehman Brothers summarized the basis of the fairness opinion that it expected to deliver. On July 17, 2006, Lehman Brothers orally delivered to the Board the basis for its opinion, which opinion was subsequently confirmed in writing as of July 18, 2006, to the effect that,

Table of Contents

as of such date and based upon and subject to specified factors and assumptions, from a financial point of view, the consideration to be received by Tercica for the issuance of the Shares, the Warrant and the Convertible Notes was fair to Tercica. The Board then approved the terms of the substantially completed documentation and authorized Tercica's officers to finalize the transaction and execute the transaction documents.

In considering the transaction with Ipsen, the Board took into account a number of factors, including:

Tercica's business prospects as a stand-alone business entity going forward;

the terms and conditions that Tercica would receive under the Increlex License and Collaboration Agreement and the attractiveness of Ipsen as Tercica's commercial partner for the Increlex product outside of the United States;

the terms and conditions that Tercica would receive under the Somatuline License and Collaboration Agreement and the expected impact of the projected cash flows from the sale of Somatuline® Autogel® on Tercica's long-term financial forecasts;

Tercica's need for immediate financing, and the fact that the Licensing Agreements and the equity investment by Ipsen would offer a comprehensive financing solution for Tercica's short-term and long-term operating goals;

the premium price to be paid for the securities to be purchased by Ipsen compared to the then-current and approximately 20-day historical volume-weighted average price of Tercica common stock;

the impact of the proposed transactions on Tercica's balance sheet and capital structure; and

the enhanced potential for strategic opportunities and alternatives that the proposed transactions would provide to Tercica for building upon the Ipsen relationship on a going-forward basis, such as expanding Tercica's commercial focus into the adult endocrinology market, accessing Ipsen's global commercial infrastructure for Tercica's future products in development, and gaining access to Ipsen's rich endocrine pipeline.

ABOUT IPSEN

Ipsen is a European pharmaceutical group with over 20 products. Ipsen's development strategy is based on a combination of products in targeted therapeutic areas (oncology, endocrinology and neuromuscular disorders), which are growth drivers and primary care products which contribute significantly to Ipsen's research financing. This strategy is also supported by an active policy of partnerships. The location of Ipsen's four research and development centers (Paris, Boston, Barcelona and London) provides Ipsen with access to leading university research teams and highly qualified personnel. Based on Ipsen's 2005 Annual Report, Ipsen's research and development expenditure reached 169,000,000 in 2005, or 20.9% of consolidated sales, which amounted to 807,000,000 in Ipsen's pro forma accounts set up according to International Finance Reporting Standards. Nearly 700 people in research and development at Ipsen are dedicated to the discovery and development of innovative drugs for patient care.

Ipsen's Somatuline® Autogel® product is an injectable sustained-release formulation containing lanreotide, a somatostatin analogue. Somatuline® was initially developed in Europe for the treatment of acromegaly (a disorder caused by the over-production of growth hormone secondary to a benign tumor of the anterior pituitary gland) and, in most European countries, is also approved for the treatment of symptoms associated with neuroendocrine tumors. The Somatuline® Autogel® formulation requires no excipient other than water and releases lanreotide over a period of at least 28 days and up to 56 days. Somatuline® Autogel® is conditioned in a pre-filled syringe for easier administration than other long-acting somatostatin analogue. In acromegaly, Somatuline® is used primarily when circulating levels of growth hormone remain high despite surgery or radiotherapy, and through its inhibitory effects, Somatuline® lowers growth hormone and IGF-1 levels, thus controlling disease progression and relieving the symptoms associated with active disease.

Table of Contents

According to epidemiology data, acromegaly affects approximately 15,000 people in the United States and Canada and is most commonly found in middle-aged adults. Studies estimate an all-cause mortality rate associated with acromegaly of at least twice the normal population, and a reduction in life expectancy of five to ten years. Somatuline[®] also treats the symptoms associated with neuroendocrine tumors, particularly carcinoid syndrome, such as diarrhea and flushing, by inhibiting the over-production of hormones secreted by these tumors.

As of December 31, 2005, Somatuline[®] and Somatuline[®] Autogel[®] had marketing authorizations in over 50 countries for the treatment of acromegaly and neuroendocrine tumors. Ipsen intends to file an application for marketing authorization in the United States by the end of 2006 for the treatment of acromegaly.

Based on Ipsen's 2005 Annual Report, Somatuline[®] and Somatuline[®] Autogel[®] generated sales of \$81,800,000 in 2005, up 13.4% as compared to 2004. In its main markets in Europe, Somatuline[®] Autogel[®] has achieved a 30% to 50% market share, varying from country to country, of the acromegaly market.

On July 17, 2006, Health Canada approved Somatuline[®] Autogel[®] for the long-term treatment of patients with acromegaly due to pituitary tumors who have had inadequate response to or cannot be treated with surgery and/or radiotherapy and for the relief of symptoms associated with acromegaly.

REASONS FOR STOCKHOLDER APPROVAL

Tercica common stock is listed on the NASDAQ Global Market, and, as a result, Tercica is subject to the rules of The NASDAQ Stock Market LLC (the "NASDAQ Rules"). Tercica is required to seek stockholder approval for the securities issuances described in Proposal 1 in order to ensure compliance with Rule 4350(i) of the NASDAQ Rules ("NASDAQ Rule 4350"). NASDAQ Rule 4350 requires stockholder approval prior to the issuance of securities when the issuance or potential issuance will result in a "change of control" of the issuer. In addition, NASDAQ Rule 4350 requires stockholder approval prior to the issuance of securities in connection with a transaction other than a public offering involving the sale, issuance or potential issuance of common stock (or securities convertible into or exercisable for common stock) equal to 20% or more of the common stock or 20% or more of the voting power outstanding prior to the issuance for less than the greater of book or market value.

Tercica's stockholders are being asked to approve the issuance of the Shares, the Convertible Notes, the Note Shares, the Warrant and the Warrant Shares because such issuances to Ipsen may be deemed to result in a "change of control" under NASDAQ Rule 4350. In addition, because the conversion prices of the Convertible Notes and the exercise price of the Warrant would be subject to weighted-average price-based antidilution adjustments in connection with certain issuances of Tercica common stock at a per share price less than the lower of \$4.75 ("3.79" with respect to the Second Convertible Note) or the then-existing conversion prices of the Convertible Notes or exercise price of the Warrant, the issuance of these securities may be deemed an issuance at less than the greater of book or market value. Accordingly, Tercica is seeking stockholder approval to ensure compliance with NASDAQ Rule 4350.

APPRAISAL RIGHTS

Under Delaware law, Tercica stockholders are not entitled to appraisal rights or other similar rights in connection with the transactions contemplated by the Purchase Agreement.

INTERESTS OF OFFICERS AND DIRECTORS

None of Tercica's officers or directors will participate in the transactions contemplated by the Purchase Agreement or receive any benefit from the transactions.

Table of Contents

SUMMARY OF THE PURCHASE AGREEMENT AND OTHER TRANSACTION DOCUMENTS

Below is a summary of the terms of the Purchase Agreement and the agreements and other documents contemplated by the Purchase Agreement.

THE FOLLOWING SUMMARY BELOW IS INTENDED TO PROVIDE YOU WITH CERTAIN INFORMATION CONCERNING THE SECURITIES ISSUANCE. HOWEVER, IT IS NOT A SUBSTITUTE FOR REVIEWING THE DOCUMENTS ATTACHED TO THIS PROXY STATEMENT.

STOCK PURCHASE AND MASTER TRANSACTION AGREEMENT

The following summary of the provisions of the Stock Purchase and Master Transaction Agreement (the Purchase Agreement) is qualified in its entirety by the Purchase Agreement, which is attached hereto as Appendix A-1.

General. At the First Closing, subject to the satisfaction or waiver of the conditions thereto (as described below):

Tercica would issue the Shares to Ipsen;

Tercica would issue the First Convertible Note to Ipsen;

Tercica would issue the Warrant to Ipsen;

Tercica would exchange with Ipsen duly executed copies of the Affiliation Agreement, Registration Rights Agreement, Somatuline License and Collaboration Agreement and Increlex License and Collaboration Agreement;

Ipsen would deliver \$77,318,944 to Tercica for the purchase price for the Shares; and

Ipsen would deliver \$25,037,000 to Tercica, which represents the principal amount of the First Convertible Note (the amount to be delivered to Tercica for the First Convertible Note would be offset by approximately the same amount that Tercica would owe to Ipsen as an upfront payment under the Somatuline License and Collaboration Agreement).

At the Second Closing, subject to the satisfaction or waiver of the conditions thereto (as described below):

Tercica would issue the Second Convertible Note to Ipsen;

Tercica would issue the Third Convertible Note to Ipsen;

Ipsen would deliver 30,000,000 to Tercica, which represents the principal amount of the Second Convertible Note (the amount to be delivered to Tercica for the Second Convertible Note would be offset by approximately the same amount that Tercica would owe to Ipsen as a milestone payment under the Somatuline License and Collaboration Agreement); and

Ipsen would deliver \$15,000,000 to Tercica, which represents the principal amount of the Third Convertible Note.

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The First Closing would occur on the third business day following stockholder approval of this Proposal 1 and Proposal 3, provided that each of the closing conditions (as more fully described below) with respect to the First Closing have either been satisfied or waived in accordance with the terms of the Purchase Agreement. The Second Closing would occur on the date on which each of the closing conditions (as more fully described below) with respect to the Second Closing have either been satisfied or waived in accordance with the terms of the Purchase Agreement.

Table of Contents

Representations and Warranties. In the Purchase Agreement, Tercica makes customary representations and warranties to Ipsen relating to, among other matters:

Tercica's organization and qualification to conduct business;

Tercica's capitalization;

Tercica's subsidiaries;

the validity of the issuance of the Shares, the Warrant Shares and the Note Shares;

Tercica's due execution, delivery and performance of the transaction documents;

the Board's approval of the transactions contemplated by the Purchase Agreement;

the exemption of the issuance of the Shares, the Warrant, the Convertible Notes, the Note Shares and the Warrant Shares from registration under applicable securities laws;

the absence of defaults under Tercica's organizational documents and agreements to which Tercica is a party;

the absence of certain material changes to Tercica or events that have had or would reasonably be expected to have a Material Adverse Effect on Tercica between March 31, 2006 and the date of the Purchase Agreement;

intellectual property matters;

Tercica's compliance with applicable laws, including applicable Food and Drug Act regulations, and related matters;

product safety or efficacy;

litigation matters;