

HEMISPHERX BIOPHARMA INC

Form 10-K/A

March 20, 2015

FORM 10-K/A

(Amendment No. 1)

SECURITIES AND EXCHANGE COMMISSION

ý ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2014

OR

“ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE
SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission File No. 1-13441

HEMISPHERX BIOPHARMA, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

52-0845822

(I.R.S. Employer Identification
Number)

1617 JFK Boulevard, Ste. 500, Philadelphia, Pennsylvania

(Address of principal executive offices)

19103

(Zip Code)

Registrant's telephone number, including area code: (215) 988-0080

Securities registered pursuant to Section 12(b) of the Act:

Common Stock, \$.001 par value

Securities registered pursuant to Section 12(g) of the Act:

(Title of Each Class)

NONE

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes “ No ý

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the

Act. Yes “ No ý

Indicate by check mark whether the registrant (1) has filed all reports to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ý No “

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ý No “

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definition of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one): Large accelerated filer Accelerated filer Non-accelerated filer Smaller Reporting Company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

The aggregate market value of Common Stock held by non-affiliates at June 30, 2014, the last business day of the registrant's most recently completed second fiscal quarter was \$57,685,937.

The number of shares of the registrant's Common Stock outstanding as of March 1, 2015 was 215,095,559.

DOCUMENTS INCORPORATED BY REFERENCE: None.

EXPLANATORY NOTE

Hemispherx Biopharma, Inc. is filing this Amendment No. 1 on Form 10-K/A (Form 10-K/A) to its Annual Report on Form 10-K for the fiscal year ended December 31, 2014 as filed with the Securities and Exchange Commission (SEC) on March 19, 2015 (the Original Filing) solely to correct an administrative error in the content of Exhibit 23.1, Consent of McGladrey LLP Independent Registered Public Accounting Firm (Consent). The error relates to the erroneous inclusion within the consent of a financial statement schedule and report on internal control over financial reporting both of which were not required. A new consent with the correct inclusions is filed as an exhibit attached hereto.

Pursuant to Rule 12b-15 under the SEC Act of 1934, as amended, this Form 10-K/A also contains new certifications pursuant to Section 302 of the Sarbanes-Oxley Act of 2002, which are attached hereto. Because no financial statements have been included in this Form 10-K/A and this Form 10-K/A does not contain or amend any disclosure with respect to Items 307 and 308 of Regulation S-K, paragraphs 3, 4, and 5 of the certifications have been omitted.

| Exhibit No. | Description |
|-------------|---|
| 23.1 | McGladrey LLP consent. * |
| 31.1 | Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 from the Company's Chief Executive Officer. * |
| 31.2 | Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 from the Company's Chief Financial Officer. * |
| 32.1 | Certification pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 from the Company's Chief Executive Officer. * |
| 32.2 | Certification pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 from the Company's Chief Financial Officer. * |

Except as described above, no other changes have been made to the Original Filing and this Form 10-K/A does not amend, update, or change the financial statements or any other items or disclosures in the Original Filing. This Amendment does not update any disclosures to reflect developments since the filing date of the Original Filing.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

HEMISPHERx BIOPHARMA, INC.

By: /s/ William A. Carter
William A. Carter, M.D.
Chief Executive Officer

March 20, 2015

Edgar Filing: HEMISPHERX BIOPHARMA INC - Form 10-K/A

| | | |
|---|---|----------------|
| /s/ William A. Carter William A. Carter, M.D. | Chairman of the Board, Director, Chief Executive Officer, President and Chief Scientific Officer | March 20, 2015 |
| /s/ Thomas K. Equels Thomas K. Equels | Executive Vice Chairman of the Board, Director, Secretary and General Counsel | March 20, 2015 |
| /s/ Peter W. Rodino Peter W. Rodino | Director | March 20, 2015 |
| /s/ William Mitchell William Mitchell, M.D., Ph.D. | Director | March 20, 2015 |
| /s/ Iraj E. Kiani Iraj E. Kiani, N.D., Ph.D. | Director | March 20, 2015 |
| /s/ Thomas K. Equels Thomas K. Equels | Chief Financial Officer | March 20, 2015 |