

BIOSANTE PHARMACEUTICALS INC
Form 424B3
May 08, 2013

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Filed Pursuant to Rule 424(b)(3)
Registration No. 333-188174

PROPOSED MERGER YOUR VOTE IS VERY IMPORTANT

To our Stockholders:

On April 12, 2013, BioSante Pharmaceuticals, Inc. (BioSante) and ANIP Acquisition Company d/b/a ANI Pharmaceuticals, Inc. (ANI), entered into an amended and restated merger agreement pursuant to which ANI Merger Sub, Inc., a wholly owned subsidiary of BioSante, will merge with and into ANI with ANI continuing as the surviving company and becoming a wholly owned subsidiary of BioSante. The boards of directors of BioSante and ANI have approved unanimously the merger agreement and the merger and believe that the combination of BioSante and ANI will create more value than either company could achieve individually. The combined company that will result from the merger will be a fully integrated specialty pharmaceutical company focused on developing, manufacturing and marketing branded and generic prescription pharmaceuticals.

Pursuant to the terms of the merger agreement, upon completion of the merger, ANI stockholders will have the right to receive, for each share of ANI capital stock they hold, that number of shares of BioSante common stock, if any, as determined pursuant to the exchange ratios described in the merger agreement and the provisions of ANI's certificate of incorporation. Following completion of the merger, ANI stockholders will own 57 percent of the outstanding shares of common stock of the combined company, and BioSante stockholders will own 43 percent of the outstanding shares of common stock of the combined company.

BioSante common stock is listed on The NASDAQ Global Market and trades under the symbol "BPAX". On May 7, 2013, the latest practicable date before the printing of this joint proxy statement/prospectus, the closing sale price of BioSante common stock was \$1.17 per share. ANI is a privately held specialty pharmaceutical company.

This joint proxy statement/prospectus provides you with detailed information about the special meeting of stockholders of BioSante to consider the issuance of shares of BioSante common stock in the merger and other matters and the special meeting of stockholders of ANI to consider the merger and related business. **Your vote is very important.** Whether or not you plan to attend your respective company's meeting of stockholders, please submit your proxy as soon as possible to make sure that your shares are represented at the applicable meeting. In addition to being a proxy statement for both BioSante and ANI, this document is also a prospectus to be used by BioSante when issuing BioSante common stock to ANI stockholders in connection with the merger. BioSante and ANI encourage you to read the entire document carefully. **Please pay particular attention to the section entitled "Risk Factors" beginning on page 38 for a discussion of the risks related to the merger, the combined company following completion of the merger, and the business and operations of each of BioSante and ANI.**

BioSante and ANI are excited about the opportunities that the proposed merger brings to both BioSante and ANI stockholders and thank you for your consideration and continued support.

Stephen M. Simes
*Vice Chairman, President and
Chief Executive Officer*
BioSante Pharmaceuticals, Inc.

Arthur S. Przybyl
President and Chief Executive Officer
ANIP Acquisition Company d/b/a ANI Pharmaceuticals, Inc.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of the BioSante common stock to be issued pursuant to the merger or determined if the information in this joint proxy statement/prospectus is accurate or adequate. Any representation to the contrary is a criminal offense.

This joint proxy statement/prospectus is dated May 8, 2013 and is first being mailed or otherwise delivered to stockholders of BioSante and ANI on or about May 10, 2013.

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REFERENCES TO ADDITIONAL INFORMATION

This joint proxy statement/prospectus forms a part of a registration statement on Form S-4 filed by BioSante Pharmaceuticals, Inc. with the Securities and Exchange Commission (SEC). It constitutes a prospectus of BioSante under Section 5 of the Securities Act of 1933, as amended (the Securities Act), and the rules and regulations thereunder, with respect to the shares of BioSante common stock to be issued to holders of capital stock of ANIP Acquisition Company d/b/a ANI Pharmaceuticals, Inc. in the merger. In addition, it constitutes a proxy statement under Section 14(a) of the Securities Exchange Act of 1934, as amended (the Exchange Act), and the rules and regulations thereunder, and a notice of meeting with respect to the BioSante special meeting of stockholders. It also constitutes a proxy statement of ANI and a notice of meeting with respect to the ANI special meeting of stockholders.

BioSante has supplied all information contained in this joint proxy statement/prospectus relating to BioSante and ANI has supplied all information contained in this joint proxy statement/prospectus relating to ANI.

If you would like to request documents from BioSante or ANI, please send a request by telephone or email to either BioSante or ANI at the following address:

BioSante Pharmaceuticals, Inc.
111 Barclay Boulevard
Lincolnshire, Illinois 60069
Attention: Investor Relations
Tel: (847) 478-0500 ext. 120
Email: info@biosantepharma.com

ANIP Acquisition Company d/b/a
ANI Pharmaceuticals, Inc.
210 Main Street West
Baudette, Minnesota 56623
Attention: Investor Relations
Tel: (218) 634-3500
Email: arthur.przybyl@anipharmaceuticals.com

If you would like to request documents, please do so by May 29, 2013 in order to receive them before the special meetings. See "Where You Can Find More Information" beginning on page 323.

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BioSante Pharmaceuticals, Inc.

**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS
IN LIEU OF ANNUAL MEETING OF STOCKHOLDERS
To Be Held On June 19, 2013**

Dear BioSante Stockholder:

A special meeting of the stockholders of BioSante Pharmaceuticals, Inc. will be held on June 19, 2013 at 8:00 a.m., local time, at BioSante's corporate office located at 111 Barclay Boulevard, Lincolnshire, Illinois 60069, for the following purposes:

1. To elect seven persons to serve as directors until BioSante's next annual meeting of stockholders or until their respective successors are elected and qualified.
2. To consider and vote upon a proposal to approve the issuance of BioSante common stock, par value \$0.0001 per share, in the merger contemplated by the amended and restated agreement and plan of merger, dated as of April 12, 2013, by and among BioSante, ANI Merger Sub, Inc., a wholly owned subsidiary of BioSante, and ANI, a copy of which is attached as Annex A to the joint proxy statement/prospectus accompanying this notice.
3. To consider and vote upon a proposal to ratify the selection of Deloitte & Touche LLP as BioSante's independent registered public accounting firm for the year ending December 31, 2013.
4. To consider and vote upon a proposal to approve, on an advisory (non-binding) basis, the compensation payable to certain executive officers of BioSante under existing arrangements in connection with the merger.
5. To consider and vote upon a proposal to approve an adjournment of the BioSante special meeting, if necessary, to solicit additional proxies if there are not sufficient votes in favor of BioSante Proposal No. 2.

Stockholders also will consider and act on any other matters that may properly come before the special meeting or any adjournment or postponement thereof, including any procedural matters incident to the conduct of the special meeting.

The special meeting will be in lieu of an annual meeting of stockholders of BioSante and thus the items of business to be considered by BioSante stockholders at the special meeting include the election of directors and the ratification of the selection of BioSante's independent registered public accounting firm for the year ending December 31, 2013. BioSante stockholders should understand, however, that if the merger with ANI is completed, the effect of the approval of BioSante Proposals No. 1 and 3 will be limited since the composition of the BioSante board of directors will be changed upon completion of the merger and it is likely that the combined company may switch auditors immediately or shortly after completion of the merger.

The board of directors of BioSante has fixed May 8, 2013 as the record date for the determination of BioSante stockholders entitled to notice of, and to vote at, the BioSante special meeting or any adjournments or postponements of the BioSante special meeting. Only holders of record of BioSante common stock and BioSante class C special stock at the close of business on the BioSante record date are entitled to notice of, and to vote at, the BioSante special meeting. At the close of business on the record date, BioSante had 24,422,240 shares of common stock and 65,211 shares of BioSante class C special stock outstanding and entitled to vote.

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Your vote is important. The affirmative vote of holders of a plurality of the BioSante common stock and BioSante class C special stock, voting together as a single class, present at the BioSante special meeting in person or by proxy and entitled to vote on the proposal, is required for approval of BioSante Proposal No. 1. The affirmative vote of the holders of a majority of the BioSante common stock and class C special stock, voting together as a single class, present at the BioSante special meeting in person or by proxy and entitled to vote on the proposal, is required for approval of BioSante Proposals No. 2, 3, 4 and 5. The approval of BioSante Proposal No. 2 is not conditioned upon the approval of BioSante Proposals No. 1, 3, 4 or 5, and the approval of BioSante Proposals No. 1, 3, 4 or 5 is not conditioned upon the approval of BioSante Proposal No. 2.

Even if you plan to attend the BioSante special meeting in person, BioSante requests that you complete, sign and return the enclosed proxy card and thus ensure that your shares will be represented at the BioSante special meeting if you are unable to attend. If you sign, date and mail your proxy card without indicating how you wish to vote, your proxy will be counted as a vote in favor of BioSante Proposals No. 1 through 5. If you fail to return your proxy card, the effect will be that your shares will not be counted for purposes of determining whether a quorum is present at the BioSante special meeting. If you do attend the BioSante special meeting and wish to vote in person, you may withdraw your proxy and vote in person.

The BioSante board of directors has determined that the issuance of shares of BioSante common stock in the merger is advisable and in the best interests of BioSante and its stockholders. The BioSante board of directors unanimously has approved the issuance of shares of BioSante common stock in the merger, and recommends that BioSante stockholders vote "FOR" the issuance of shares of BioSante common stock in the merger, "FOR" all seven of the nominees for director in BioSante Proposal No. 1 and "FOR" all other proposals.

By Order of the Board of Directors,

Phillip B. Donenberg
*Senior Vice President of Finance,
Chief Financial Officer and Secretary*

May 8, 2013
Lincolnshire, Illinois

**IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS FOR
BIOSANTE'S SPECIAL MEETING TO BE HELD ON JUNE 19, 2013**

The accompanying joint proxy statement/prospectus is available at www.proxyvote.com/BioSante.

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ANIP Acquisition Company d/b/a ANI Pharmaceuticals, Inc.

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS To Be Held On June 19, 2013

Dear ANI Stockholder:

A special meeting of the stockholders of ANIP Acquisition Company d/b/a ANI Pharmaceuticals, Inc. will be held on June 19, 2013 at 9:00 a.m., local time, at the offices of MVP Capital Partners located at 259 N. Radnor-Chester Road, Suite 130, Radnor, Pennsylvania 19087, for the following purposes:

1. To consider and vote upon a proposal to adopt the amended and restated agreement and plan of merger, dated as of April 12, 2013, by and among BioSante, ANI Merger Sub, Inc., a wholly owned subsidiary of BioSante, and ANI, a copy of which is attached as Annex A to the joint proxy statement/prospectus accompanying this notice, and the transactions contemplated thereby, including the merger.
2. To consider and vote upon a proposal to approve an adjournment of the ANI special meeting, if necessary, to solicit additional proxies if there are not sufficient votes in favor of ANI Proposal No. 1.

Stockholders also will consider and act on any other matters that may properly come before the special meeting or any adjournment or postponement thereof, including any procedural matters incident to the conduct of the special meeting.

The board of directors of ANI has fixed May 8, 2013 as the record date for the determination of ANI stockholders entitled to notice of, and to vote at, the ANI special meeting or any adjournments or postponements of the ANI special meeting. Only holders of record of ANI capital stock at the close of business on the ANI record date are entitled to notice of, and to vote at, the ANI special meeting. At the close of business on the record date, ANI had 2,375,312 shares of series D convertible preferred stock, 34,810 shares of series C convertible preferred stock, 78,491 shares of series B convertible preferred stock, 102,774 shares of series A convertible preferred stock and 23,613 shares of common stock outstanding and entitled to vote.

Your vote is important. The affirmative vote of holders of a majority of the shares of ANI common stock, calculated on an as-converted basis and voting together as a single class, and 65 percent of the shares of ANI series D convertible preferred stock having voting power outstanding on the record date for the ANI special meeting is required for approval of ANI Proposal No. 1. The affirmative vote of holders of a majority of ANI common stock, calculated on an as-converted basis, present in person or represented by proxy at the ANI special meeting, is required for approval of ANI Proposal No. 2.

Even if you plan to attend the ANI special meeting in person, ANI requests that you complete, sign and return the enclosed proxy card and thus ensure that your shares will be represented at the ANI special meeting if you are unable to attend. If you sign, date and mail your proxy card without indicating how you wish to vote, your proxy will be counted as a vote in favor of ANI Proposals No. 1 and 2. If you fail to return your proxy card, the effect will be that your shares will not be counted for purposes of determining whether a quorum is present at the ANI special meeting and will count as a vote against ANI Proposal No. 1. If you do attend the ANI special meeting and wish to vote in person, you may withdraw your proxy and vote in person.

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The ANI board of directors has determined that the merger agreement and the transactions contemplated by it, including the merger, are advisable and in the best interests of ANI and its stockholders. The ANI board of directors has unanimously approved and adopted the merger agreement and the transactions contemplated by it, including the merger, and recommends that ANI stockholders vote "FOR" the adoption of the merger agreement and the transactions contemplated thereby, including the merger, and "FOR" the adjournment of the ANI special meeting, if necessary, to solicit additional proxies if there are not sufficient votes in favor of ANI Proposal No. 1.

By Order of the Board of Directors,

Charlotte C. Arnold
Vice President and Chief Financial Officer

Baudette, Minnesota
May 8, 2013

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